

By Senator Sobel

31-00379A-11

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1                   A bill to be entitled  
2       An act relating to public contracts; providing  
3       legislative findings and intent; requiring each entity  
4       intending to bid or submit a proposal to contract with  
5       the Florida Rail Enterprise or a fixed-guideway  
6       transportation system for goods or services related to  
7       high-speed or other rail systems to certify whether  
8       the entity had any direct involvement in the  
9       deportation of any individual to an extermination  
10      camp, work camp, concentration camp, prisoner-of-war  
11      camp, or any similar camp by whatever name located in  
12      Europe during the period from January 1, 1942, through  
13      December 31, 1944, and if so, whether the entity has  
14      physical possession of records related to the  
15      deportations and has provided restitution to  
16      identifiable victims; authorizing the entity to offer  
17      proof of mitigating circumstances related to acts  
18      committed during the wartime period; requiring that  
19      the Florida Rail Enterprise and other fixed-guideway  
20      transportation system acknowledge receipt of the  
21      information when awarding contracts; providing  
22      definitions; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

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26       Section 1. High-speed rail and fixed-guideway  
27 transportation systems; contracting procedures; public  
28 disclosure.-

29       (1) LEGISLATIVE FINDINGS AND INTENT.-

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30       (a) The Legislature finds that the design, engineering,  
31 operation, and maintenance of Florida's proposed high-speed rail  
32 system and other fixed-guideway transportation systems will be  
33 funded with public moneys provided by federal and state  
34 taxpayers, bond sales, and public-private partnerships following  
35 competitive bidding processes.

36       (b) The Florida Rail Enterprise and residents of this state  
37 should have the benefit of appropriate and complete disclosure  
38 by all entities competing to build and operate the high-speed  
39 rail system and other fixed-guideway transportation systems.  
40 Such disclosure and related due diligence is essential to this  
41 state's regulation and oversight of the contracting process and  
42 expenditure of state funds.

43       (c) It has come to the Legislature's attention that certain  
44 potential entities that have expressed interest in competing for  
45 publicly funded rail system contracts have engaged in conduct  
46 that the Legislature believes requires public disclosures. For  
47 instance, between 1942 and 1944, many thousands of persons,  
48 including current residents of this state, were deported to  
49 extermination camps, work camps, concentration camps, prisoner-  
50 of-war camps, or any similar camps by whatever name in Europe on  
51 trains.

52       (d) It is the intent of the Legislature that, in the spirit  
53 of complete transparency, the bidding and contract entities  
54 competing for contracts reveal what, if any, relationship the  
55 entity had with those entities that served the interests of  
56 those responsible for the mass deportations in wartime.

57       (2) CONTRACTING PROCEDURES; FULL DISCLOSURE.—This  
58 subsection establishes the proper procedures for entities that

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59 intend to bid or submit a proposal to contract with the Florida  
60 Rail Enterprise or a fixed-guideway transportation system for  
61 goods or services related to the high-speed and other rail  
62 systems, as contemplated by the Florida Rail Enterprise Act.

63 (a) Notwithstanding any other law, each entity applying for  
64 a publicly funded contract with the Florida Rail Enterprise or a  
65 fixed-guideway transportation system, including, but not limited  
66 to, the engineering, construction, manufacture, or operation of  
67 a high-speed rail system or other fixed-guideway transportation  
68 system, shall affirmatively certify the following in advance of  
69 submitting a formal bid:

70 1. Whether the entity had any direct involvement in the  
71 deportation of any individual to an extermination camp, work  
72 camp, concentration camp, prisoner-of-war camp, or any similar  
73 camp in Europe during the period from January 1, 1942, through  
74 December 31, 1944.

75 2. If an entity responds that it had a direct involvement  
76 in the deportation of any individual, as described in  
77 subparagraph 1., the entity shall certify all of the following:

78 a. Whether the entity has any records, whenever created, in  
79 its possession, custody, or control related to those  
80 deportations.

81 b. Whether the entity has taken any remedial action  
82 concerning those deportations, and whether the entity has  
83 provided restitution to all identifiable victims of those  
84 deportations.

85 (b) An entity that certifies its direct involvement under  
86 this subsection may provide any mitigating circumstances in  
87 narrative or documentary form.

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88       (c) The Florida Rail Enterprise or other fixed-guideway  
89 transportation system shall acknowledge receipt of the  
90 information as required by this subsection when awarding  
91 contracts.

92       (3) DEFINITIONS.—As used in this section, the term:

93       (a) "Direct involvement" means ownership or operation of  
94 the trains on which a person was deported to an extermination  
95 camp, work camp, concentration camp, prisoner-of-war camp, or  
96 any similar camp by whatever name in Europe during the period  
97 from January 1, 1942, through December 31, 1944.

98       (b) "Entity" includes any corporation, affiliate, or other  
99 entity that controls, is controlled by, or is under common  
100 control with, or that is a member of a partnership or a  
101 consortium with, an entity that is subject to this section. An  
102 entity is presumed to be in control of another corporation or  
103 entity if it owns or directly or indirectly controls more than  
104 50 percent of the voting securities or more than 50 percent of  
105 any other ownership interest of the other corporation or entity.  
106 This definition applies irrespective of whether or not the  
107 equity interest in the entity is owned by a foreign state.

108       (c) "Fixed-guideway transportation system" means a public  
109 transit system for the transporting of people by a conveyance,  
110 or a series of interconnected conveyances, which is specifically  
111 designed for travel on a stationary rail or other guideway,  
112 whether located on, above, or under the ground.

113       Section 2. This act shall take effect July 1, 2011.