

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 6-B

INTRODUCER: Senator Ingoglia

SUBJECT: Transportation of Inspected Unauthorized Aliens

DATE: February 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parsons	Yeatman	FP	Pre-Meeting

I. Summary:

SB 6-B creates the Unauthorized Alien Transport Program within the Division of Emergency Management. The division will implement a program to facilitate the transport of inspected unauthorized aliens within the United States, consistent with federal law. The division is authorized to contract for services to implement the program, notwithstanding s. 287.057, F.S., relating to competitive procurement laws. The program expires June 30, 2025. The bill appropriates \$10 million to the division for Fiscal Year 2022-2023 for the program.

The bill repeals section 185 of ch. 2022-156, Laws of Florida. All payments made pursuant to that section are deemed approved and any unexpended balance of funds appropriated to the Department of Transportation immediately revert.

This bill takes effect upon becoming a law.

The fiscal impact of the bill is neutral.

II. Present Situation:

The federal government has broad power over immigration and alien status.¹ This broad power is enforced through an extensive set of rules governing alien admission, removal, and conditions for continued presence within the United States, including the Immigration and Nationality Act.² While the federal government’s authority over immigration is well established, the United States Supreme Court has recognized that not “every state enactment which in any way deals with aliens is a regulation of immigration and thus per se preempted” by the federal government.³

In federal fiscal year 2020, the U.S. Border Patrol and Office of Field Operations had 646,822 enforcement actions for the year; in 2021, that total increased to over 1.9 million actions, an

¹ *Arizona v. United States*, 567 U.S. 387 (2012).

² 8 U.S.C. 1108, et seq.

³ *De Canas v. Bica*, 424 U.S. 351, 355 (1976); see *Arizona*, 567 U.S. 387.

increase of over 200 percent. The total enforcement actions in federal fiscal year 2022 was about 2.8 million, another 41 percent increase, and to date for 2023, the total is already over 860,000.⁴ These statistics include individuals “encountered at ports of entry who are seeking lawful admission into the United States but are determined to be inadmissible, individuals presenting themselves to seek humanitarian protection under our laws, and individuals who withdraw an application for admission and return to their countries of origin within a short timeframe.” The total also includes encounters that led to apprehensions or expulsions; apprehensions refer to individuals who were physically controlled or temporarily detained due to being unlawfully present in the United States.

In addition to the dramatic increase in border encounters, the recidivism rate has also increased. “Recidivism refers to percentage of individuals apprehended more than one time by the Border Patrol within a fiscal year.”⁵ In federal fiscal year 2019, the rate was only 7 percent. However, that climbed to an increase of 26 percent in federal fiscal year 2020 and 27 percent in federal fiscal year 2021.

Encounters with criminal noncitizens were:

FFY 2020	FFY 2021	FFY 2022	FFY 2023 to date
9,447	17,330	29,021	6,980

“Criminal noncitizens refers to noncitizens who have been convicted of crime, whether in the United States or abroad, so long as the conviction is for conduct which is deemed criminal by the United States.”⁶

In ch. 2022-156, Laws of Florida, the General Appropriations Act, the Department of Transportation was appropriated \$12 million from general revenue to implement a program to facilitate the transport of unauthorized aliens from this state consistent with federal law.⁷ An “unauthorized alien” was defined to mean a person who is unlawfully present in the U.S. according to the terms of the federal Immigration and Nationality Act.

On January 6, 2023, the Governor issued Executive Order No. 23-03, Emergency Management – Illegal Migration. Based on findings of unprecedented interdictions, attempts of entry, and border patrol encounters, the Governor designated the migration of unauthorized aliens to Florida as likely to constitute a major disaster and designated the director of the Division of Emergency Management as the state coordinating officer for the disaster with direction to execute response, recovery, and mitigation plans necessary to cope with the emergency. The order also activates the Florida National Guard, as needed, to assist with the efforts. The order waives contracting policies and requirements, allows for expenditure of state funds through the Emergency Preparedness and Response Fund, and authorizes medical professionals, social

⁴ U.S. Customs and Border Protection, *CBP Enforcement Statistics Fiscal Year 2023*, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> (last visited February 3, 2023). The federal fiscal year is October to September.

⁵ *Id.*

⁶ *Id.*

⁷ Section 185, ch. 2022-156, Laws of Florida.

workers, and counselors with good and valid licenses issued by other states to provide humanitarian aid services.

III. Effect of Proposed Changes:

The bill creates the Unauthorized Alien Transport Program with the Division of Emergency Management. The division will implement a program to facilitate the transport of inspected unauthorized aliens⁸ within the United States, consistent with federal law. The division is authorized to contract for services to implement the program, notwithstanding s. 287.057, F.S., relating to competitive procurement laws. The program expires June 30, 2025. The bill appropriates \$10 million to the division for Fiscal Year 2022-2023 for the program.

The bill repeals section 185 of ch. 2022-156, Laws of Florida. All payments made pursuant to that section are deemed approved and any unexpended balance of funds appropriated to the Department of Transportation immediately revert.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII, Florida Constitution requires increased taxes or fees to be passed in a separate bill and by two-thirds vote of the membership of each house of the Legislature. This bill does not increase any taxes or fees, and thus the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None identified.

⁸ The bill defines “inspected unauthorized alien” as individual who has documentation from the federal government indicating that the government processed and released him or her into the United States without admitting the individual in accordance with the federal law. The term must be interpreted consistently with any applicable federal statutes, rules, or regulations.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill appropriates \$10 million in nonrecurring funds from the General Revenue Fund to the Division of Emergency Management for Fiscal Year 2022-2023.

The bill repeals section 185 of ch. 2022-156, Laws of Florida. All payments made pursuant to that section are deemed approved and any unexpended balance of funds appropriated to the Department of Transportation immediately revert. As of January 31, 2023, there were a total of \$1.565 million in disbursements from this appropriation, leaving a balance of \$10.435 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Division of Emergency Management is authorized to adopt rules to implement the program created by the bill.

VIII. Statutes Affected:

The bill creates an undesignated section of Florida law.

This bill repeals section 185 of chapter 2022-156, Laws of Florida.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.