Bill No.: SB-869
AN ACT CONCERNING RECOMMENDATIONS BY THE CONNECTICUT AIRPORT AUTHORITY REGARDING NONBUDGETED EXPENDITURES, THE CONNECTICUT AIRPORT AND AVIATION ACCOUNT AND THE SECURITY EXEMPTION UNDER THE FREEDOM OF INFORMATION ACT.

Vote Date: 3/20/2019
Vote Action: Joint Favorable Substitute
PH Date: 3/4/2019

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SPONSORS OF BILL:
Transportation Committee

REASONS FOR BILL:

This is the Connecticut Airport Authority (CAA) request bill. It would make changes to the amount of non-budgetary expenditures the CAA director can authorize in an emergency, due to the high cost associated with any catastrophic accident on CAA grounds and the limited amount of funds currently authorized for non-budgetary expenditures.

A change in the administration of the CAA Aviation Account so that the funds are available to the CAA in a more timely manner and without being approved by two state agencies.

A change in the FOIA requirements which would let the CAA and not DAS make the determination if a FOIA request concerning security related documents is received, currently state law is unclear on how a Quasi-public agency can or is able to do so, further on this point CAA request the ability to hold back FOIA requests on RFP as these could place the CAA at a competitive disadvantage if competitor airports are able to see the bids before a proposal is accepted.

RESPONSE FROM ADMINISTRATION/AGENCY:

Kevin Dillon, Executive Director, Connecticut Airport Authority (CAA)-

Section 1 would increase the CAA Board's ability to authorize the Executive Director to make up to $1 million worth of nonbudgeted expenditures, only in the case of an
emergency when the airport is damaged or operations are impacted. As you surely know, airport infrastructure is very costly, and it is easy to envision an emergency that could require immediate expenditures that exceed the current $500,000 cap.

Section 2 would adjust the administration of the Connecticut Airport and Aviation Account. Currently, a portion of the state's aviation fuel tax revenues are deposited into the account by the Department of Revenue Services, and the funding is then sent by the Department of Transportation and the Office of Policy and Management to the CAA and Tweed-New Haven Airport. The CAA utilizes the funding for its five general aviation airports, as well as the grant program that the CAA administers for all airports across the state, excluding Bradley. Since the funding changes hands so many times and requires approval processes along the way, the funding has been very delayed in reaching the CAA. In fact, we had to temporarily suspend the 2018 state grant program due to these funding delays. Since the state is federally required to use the funding for aviation purposes, and since the CAA is the statewide regulatory body for aviation matters, this legislation would allow the CAA to directly receive funding from the account to cut down on unnecessary delays.

Sections 3 and 5 would provide the CAA with the authority to make its own determinations about the disclosure of security-related documents under the Freedom of Information Act. As the federally recognized airport sponsor which is legally required to maintain secure airport facilities through agreements with the Transportation Security Administration, the CAA must be able to withhold security-sensitive documentation when it is requested through FOIA. Current statute does not explicitly state how a quasi-public agency can withhold documents from disclosure when the agency has security concerns. When these types of instances have occurred in the past, the CAA has followed the path that is set for regular state agencies, and it has sought approval from the Department of Administrative Services to withhold such documents. This proposal would only allow the CM to make the initial determination on the exemption of these records. Just as DAS decisions on the CAA’s behalf are currently challengeable through the Freedom of Information Commission, any future CAA determinations would be open to appeal through the same process.

Section 4 addresses an oversight in the Freedom of Information Act statute that only allows a public agency to withhold responses it receives from RFPs that it issues, and not for responses that the public agency submits to a third party's RFP. Without an exemption from FOIA, a competitor airport could easily request and receive information about the CAA's pitch. The statute, as currently constructed, clearly seeks to protect the State from being put at a competitive disadvantage in its business dealings, and this minor change would further that goal by allowing public agencies to withhold their responses to external RFPs until the negotiating process has concluded.

The CAA has discussed the bill language in Sections 3-5 with FOIC staff, and they have
agreed that they are amenable to the limited exemptions that we are seeking.

Melissa McCaw, Secretary, Office of Policy and Management-
I respectfully request that if this bill moves forward, the committee removes section 2 of the bill.
Section 2 of this bill seeks to remove the Office of Policy and Management and the Department of Transportation from approving any expenses from the Connecticut Airport and Aviation Account. Instead, that discretion is given solely to the Connecticut Airport Authority who will have the sole control over how those funds will be used. This will limit the state’s ability to use these funds for aviation purposes outside of the Connecticut Airport Authority’s jurisdiction, which would include Tweed Airport and transportation improvements around the state’s airport facilities.

NATURE AND SOURCES OF SUPPORT:
Colleen M. Murphy, Executive Director The Freedom of Information (FOI) Commission-
The Commission believes the Executive Director, who necessarily interacts with federal law enforcement agencies regarding security concerns, both foreign and domestic, is the appropriate public official to make such determinations under Conn. Gen. Stat. §1-210(b)(19), which currently provides a process for reviewing an agency’s claims regarding security based exemptions prior to the filing of a complaint, and makes the reviewer the entity that must defend the decision to withhold public records before the FOI Commission, in the event a complaint is filed.

NATURE AND SOURCES OF OPPOSITION:
Michele Jacklin Connecticut Council on Freedom of Information (CCFOI)-
We oppose revising the Freedom of Information Act and giving the Connecticut Airport Authority the ability to invoke exemptions for security-related documents without oversight from another state agency. If there is uncertainty on how quasi-public agencies should respond when they have security-based concerns about an FOI request, we urge the legislature to clarify the existing process and maintain uniformity. Currently, state agencies must seek approval to withhold documents from the Department of Administrative Services (DAS). But the statutes are silent when it comes to quasi-public agencies. Quasi-public agencies, in particular, have had a mixed record when it comes to transparency and openness. One only has to recall Comptroller Kevin Lembo’s struggle in getting Connecticut’s quasi-public agencies, including the Connecticut Port Authority, to share even basic “checkbook-level” information for the Open Connecticut! website.

Reported by: Philip N Mainiero Date: 4/4/19