OLR Bill Analysis
sSB 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.

SUMMARY

This bill modifies the Freedom of Information Act (FOIA) by (1) exempting from disclosure public agencies’ responses to requests for proposals or bid solicitations and (2) allowing the Connecticut Airport Authority (CAA) executive director, rather than the Department of Administrative Services (DAS) commissioner, to determine whether the disclosure of CAA records would pose a safety risk.

The bill also modifies the process for disbursing funds from the Connecticut Airport and Aviation Account, requiring that account funds be transferred directly to CAA rather than transferred to CAA by the Department of Transportation (DOT) commissioner.

Lastly, the bill increases the maximum amount of nonbudgeted emergency expenditures that the board may authorize the CAA executive director to make without prior board approval.

EFFECTIVE DATE: Upon passage, except that the FOIA provisions are effective October 1, 2019.

§§ 3-5 — FOIA CHANGES

Disclosure of Records that Pose a Safety Risk

Existing law exempts records from disclosure under FOIA if reasonable grounds exist to believe that their release could pose a safety risk, including harm to anyone or any government-owned or -leased institution, facility or equipment. Records exempt from disclosure under this provision include security manuals, architectural
and engineering drawings, security system operational specifications, training manuals, and emergency plans.

Under current law, the DAS commissioner must determine whether there are reasonable grounds for a safety risk for records held by any executive branch agency, including CAA. The law requires (1) agencies to notify DAS when they receive requests for such records and (2) DAS to consult with the agency head before making a final decision.

The bill instead allows the CAA executive director to determine if reasonable grounds exist to believe that disclosure of CAA records could pose a safety risk and makes a conforming change by exempting the CAA director from the requirement to notify DAS of requests for such records.

Requests for Proposals (RFPs) or Bid Solicitations

Existing law exempts from disclosure under FOIA responses to RFPs or bid solicitations issued by public agencies. The bill additionally exempts from disclosure responses public agencies make to RFPs or bid solicitations.

As under existing law, the agency’s chief executive officer must certify that the public’s interest in the response’s confidentiality outweighs its interest in the response’s disclosure. Such responses are exempt from disclosure only until the applicable contract is executed or contract negotiations have ended, whichever occurs earlier.

§ 2 — CONNECTICUT AIRPORT AND AVIATION ACCOUNT

The bill modifies the process for disbursing funds from the Connecticut Airport and Aviation Account (see BACKGROUND) to the CAA.

Current law requires DOT, with Office of Policy and Management (OPM) approval, to spend the account's resources for airport and aviation-related purposes. In practice, DOT, with approval from OPM, periodically transfers the funds to the CAA.

Under the bill, money in the account must be transferred directly to
a CAA-established account and used for airport and aviation-related purposes. The amount and frequency of the transfers must be mutually agreed upon by the CAA executive director and the revenue services commissioner.

§ 1 — NONBUDGETED EXPENDITURES

The bill increases, from $500,000 to $1,000,000, the maximum amount of nonbudgeted expenditures the CAA board may authorize the executive director to make, without prior board approval, in certain emergency situations.

As under current law, the executive director may make such expenditures only (1) to restore operations at any CAA airport that suffers damage from a natural disaster or incurs a substantial casualty loss that creates unsafe conditions or (2) when failing to act would disrupt operations. Within 24 hours of making a nonbudgeted expenditure, the executive director must notify the board chairperson or vice chairperson of the expenditure's amount and purpose.

BACKGROUND

Connecticut Airport and Aviation Account

By law, the revenue commissioner must deposit into the account 75.3% of petroleum products gross earnings tax (PGET) revenue from aviation fuel sources (equivalent to 6.1% of aviation fuel sales) regardless of a law requiring that all PGET revenue be deposited in the STF. (By law, sales of most petroleum products, including aviation fuel, are subject to the 8.1% PGET (CGS § 12-587).) The remaining 24.7% of PGET revenue from aviation fuel (equivalent to 2% of aviation sales) is deposited in the STF.

Federal law requires that all airport revenue be used exclusively for airport-related purposes (49 U.S.C.A. § 47107(b)). Federal Aviation Administration (FAA) policy guidance clarifies that state revenue derived from taxes on aviation fuel is considered “airport revenue,” even if those taxes are of general applicability, and is therefore subject to such restrictions (79 FR 66282). However, the restrictions do not apply to revenue from a tax or a portion of a tax that was in effect
when the federal law took effect.

**Related Bill**

HB 5110, favorably reported by the Government Administration and Elections Committee, contains a provision allowing the CAA executive director, rather than the DAS commissioner, to determine whether the disclosure of CAA records would pose a safety risk.

**COMMITTEE ACTION**

Transportation Committee

Joint Favorable Substitute
Yea 36 Nay 0 (03/20/2019)