OLR Bill Analysis
sSB 869 (File 523, as amended by Senate "A")*

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 exempting from disclosure public agencies’ responses to requests for proposals or bid solicitations issued by private entities.

It transfers the authority to spend funds in the Connecticut airport and aviation account (see BACKGROUND) from the transportation commissioner to the Connecticut Airport Authority (CAA) executive director. As under existing law, spending from the account requires approval from the Office of Policy and Management secretary.

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

*Senate Amendment “A” (1) eliminates a provision allowing the CAA director, rather than the administrative services commissioner, to determine whether disclosure of CAA records under FOIA constitutes a safety risk and (2) makes other minor and technical changes.

EFFECTIVE DATE: Upon passage, except that the FOIA provision is effective October 1, 2019.

§ 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 existing 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.

§ 3 — 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 issued by private entities.

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.

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.

**COMMITTEE ACTION**

Transportation Committee

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