

1 HB165
2 147135-2
3 By Representatives Baughn, Jones, Wallace, Roberts, Laird,
4 Sessions, Gaston and Coleman-Evans
5 RFD: Transportation, Utilities and Infrastructure
6 First Read: 06-FEB-13

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8 SYNOPSIS: Under existing law, the Director of the
9 Department of Transportation may alter plans or
10 character of work, determine need for extra work,
11 and make supplemental agreements relating to
12 highway projects.

13 This bill would allow the director to alter
14 plans or character of work, determine the need for
15 new or additional work, approve any additional,
16 new, or extra work or work changes, alterations, or
17 requirements not in excess of \$200,000 per contract
18 without the approval of the Governor and would
19 require the Department of Transportation to develop
20 procedures to implement the provision.

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22 A BILL
23 TO BE ENTITLED
24 AN ACT

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26 To amend Section 23-1-60 of the Code of Alabama
27 1975, relating to the Department of Transportation, to further

1 authorize the Director of Transportation to alter plans or
2 character of work, determine need for extra work, and make
3 supplemental agreements relating to highway projects under
4 certain conditions.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 23-1-60 of the Code of Alabama
7 1975, is amended to read as follows:

8 "§23-1-60.

9 "The following implementation of the provisions of
10 the State Department of Transportation standard specifications
11 for highways and bridges is hereby adopted as a statutory
12 provision, any and all other laws in conflict notwithstanding:

13 "(1) ALTERATION OF PLANS OR CHARACTER OF WORK. The
14 Director of Transportation shall have the authority to make,
15 at any time during the progress of any construction on any
16 highway project under his or her jurisdiction, such changes or
17 alterations of construction details, including alterations in
18 grade or alignment of roadway or bridges, or both, as may be
19 necessary or desirable for the successful completion of the
20 project. The aforementioned changes or alterations may or may
21 not increase or decrease the original planned quantities;
22 however, under no circumstances shall changes or alterations
23 involve any work beyond the termini of the original
24 construction project, except as may be necessary to
25 satisfactorily complete the project in the most feasible and
26 economical manner, in the judgment of the Director of
27 Transportation.

1 "(2) EXTRA WORK. The Director of Transportation
2 shall have the authority to determine the need for new or
3 additional work not contemplated or included in the original
4 construction contract. This new or additional work shall not
5 extend beyond the termini of the original construction
6 project, except as may be necessary to satisfactorily complete
7 the project in the most feasible and economical manner, in the
8 judgment of the Director of Transportation.

9 "(3) SUPPLEMENTAL AGREEMENT OR FORCE ACCOUNT ORDER.

10 "a. The Director of Transportation shall have the
11 authority to enter into a supplemental contract with the prime
12 contractor, setting forth the estimated quantities of extra
13 work and specifying the unit prices or lump sum agreed upon by
14 the parties involved; provided, that such supplemental
15 contract shall not be subject to any competitive bid laws of
16 this state. If a satisfactory unit price or lump sum cannot be
17 agreed upon, the Director of Transportation shall have the
18 authority to direct that extra work be performed on a force
19 account basis, as defined by the State Department of
20 Transportation standard specifications for highways and
21 bridges.

22 "b. Notwithstanding any other provision of law to
23 the contrary, any additional, new, or extra work, or work
24 changes, alterations, or requirements, arising out of or
25 relating to the original contract, may be authorized by the
26 Director of Transportation without the approval of the
27 Governor, provided that the increased amount does not exceed

1 one hundred thousand dollars (\$100,000) or 10 percent of the
2 initial contract amount, whichever is greater, and the
3 increased amounts in the aggregate do not exceed two hundred
4 thousand dollars (\$200,000). Any decrease or underrun of the
5 contract may be authorized by the Director of Transportation
6 without the approval of the Governor. The Department of
7 Transportation shall develop procedures to implement this
8 paragraph."

9 Section 2. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.