

1 HB642  
2 140094-1  
3 By Representative Baughn  
4 RFD: Transportation, Utilities and Infrastructure  
5 First Read: 05-APR-12

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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, new  
16 or extra work or work changes, alterations, or  
17 requirements not in excess of 10 percent of the  
18 initial contract amount up to one million dollars  
19 without the approval of the Governor and would  
20 authorize the Department of Transportation to  
21 develop procedures to implement the provision.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
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1                   To amend Section 23-1-60 of the Code of Alabama  
2                   1975, relating to the Department of Transportation, to further  
3                   authorize the Director of Transportation to alter plans or  
4                   character of work, determine need for extra work, and make  
5                   supplemental agreements relating to highway projects.

6                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7                   Section 1. Section 23-1-60 of the Code of Alabama  
8                   1975, is amended to read as follows:

9                   "§23-1-60.

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

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

1 economical manner, in the judgment of the Director of  
2 Transportation.

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

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

24 "(b) (1) Notwithstanding any other provision of law  
25 to the contrary, any additional, new or extra work, or work  
26 changes, alterations, or requirements, arising out of or  
27 relating to the original contract, may be authorized by the

1 Director of Transportation without the approval of the  
2 Governor, provided that the increased amount does not exceed  
3 fifty thousand dollars (\$50,000) or 10 percent of the initial  
4 contract amount, whichever is greater, but in no event shall  
5 the increased amounts in the aggregate be greater than one  
6 million dollars (\$1,000,000). Any decrease or underrun of the  
7 contract may be authorized by the Director of Transportation  
8 without the approval of the Governor.

9 "(2) The Department of Transportation shall develop  
10 procedures to implement this subsection."

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