HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS

BILL #:   CS/HB 315

RELATING TO: Florida Airport Authority Act

SPONSOR(S):   Committee on Transportation, Representative Rojas and others

TIED BILL(S):   None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
    (1)   TRANSPORTATION (EDC)   YEAS 7 NAYS 0
    (2)   COMMUNITY AFFAIRS (PRC)   YEAS 8 NAYS 0
    (3)   FINANCE & TAXATION (FRC)
    (4)   TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
    (5)

I.   SUMMARY:

This bill creates the Florida Airport Authority Act. The bill allows any county, or two or more contiguous counties, to form their own airport authority by resolution of the board or boards of county commissioners. The bill provides for a governing body of 5 to 9 members and sets out how they may be chosen. The bill contains provisions governing the activities of the authority.

The bill has an insignificant fiscal impact on state and local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. <u>Less Government</u>   Yes []   No [X]   N/A []

2. <u>Lower Taxes</u>   Yes []   No []   N/A [X]

3. <u>Individual Freedom</u>   Yes []   No []   N/A [X]

4. <u>Personal Responsibility</u> Yes []   No []   N/A [X]

5. <u>Family Empowerment</u>   Yes []   No []   N/A [X]

For any principle that received a "no" above, please explain:

Less Government: If counties use the bill's provisions to create airport authorities, more governmental entities will result. However, these entities may only replace departments or units of county government that currently exist.

B. PRESENT SITUATION:

There is currently no Florida Statutes chapter which provides uniform procedures for creating an airport authority. Individual airport authorities have been created by enactment of local bills in a number of counties. To date, there are twenty-six special airport/aviation districts located within twenty-five counties of the State. Fifteen authorities are dependent special districts, with the remaining eleven operating as independent special districts. The most recent airport authority, the West Orange Airport Authority, was created in 1999 and can be found in chapter 99-482, Laws of Florida. The authorizing language for these authorities appears as various chapters of the Laws of Florida, and are not codified in the Florida Statutes. In addition, many airports are operated by units of local government, generally as a department or office within the local government structure.

Prior to 1990, individual expressway, bridge and transportation authorities were created by specific legislative enactment in several counties. These authorities are set forth in Parts II through IX, of Chapter 348, F.S. Jacksonville has its transportation authority codified in Chapter 349, F.S. In 1990, the Legislature enacted Part I of Chapter 348, F.S., which allows any county, or two or more contiguous counties, to form their own expressway authority by resolution of the board or boards of county commissioners. This part provides for membership of the governing body and sets out provisions that would govern the activities of such an authority.

C. EFFECT OF PROPOSED CHANGES:

This bill creates the Florida Airport Authority Act. It allows any county, or two or more contiguous counties, to form their own airport authority by resolution of the board or boards of county commissioners. It provides for a governing body of 5 to 9 members, with 2 members being appointed by the governor and the remaining members being appointed by the county commission. Further, provision is made for the removal from office of Authority members by the Governor, for cause. The DOT district secretary is also a non-voting member of the authority.

The bill enables an authority to employ staff members for the following positions: executive director; executive secretary; counsel and legal staff; technical experts, consultants, and advisors; engineers and employees as it may require; and fiscal agents.

An authority may acquire, hold, construct, improve, maintain, operate, own, and lease an airport system. Additional airports may be constructed only if the additional airport is financially feasible and compatible with the authority's existing plans. Each new airport must have the written consent of the board of county commissioners of each county within the geographic boundaries of that authority.

The authority is empowered to sue and be sued, adopt a corporate seal, acquire and use any real or personal property in carrying out its purposes, make leases or lease-purchase agreements, use eminent domain, establish and collect fees, rentals and charges for its services and facilities, or borrow money under the State Bond Act. It is also authorized to accept grants from and enter into contracts with a federal, state, or county agency and would have the power of eminent domain. The authority is also able to consider unsolicited proposals from private entities for planning, constructing, maintaining or operating its airport system.

The consent of a municipality in which any project of the authority is to be located is not required if the project is consistent with the adopted local comprehensive plan. If the project is not consistent with such plan, the project must be consistent with the state aviation system plan, the strategic regional plan, and the regional interest must clearly override the interests of the municipal government.

The authority is empowered to appoint the county as its agent in the construction of improvements to an airport system. Bonds may only be issued by the airport authority with the written consent of the board of county commissioners of each county within the geographic boundaries of that authority. The bonds must be issued pursuant to the State Bond Act contained in Chapter 215, F.S. Each authority and any bonds issued by such authority are exempt from taxation, except for corporate taxes owed under Chapter 220, F.S.

The provisions of the bill are not applicable to counties in which an airport authority has previously been created by an act of the Legislature. There are 25 counties that have airport authorities created by the Legislature. Those counties are: Alachua, Bay, Brevard, Charlotte, Clay, Collier, Duval, Franklin, Gadsen, Hernando, Highlands, Hillsborough, Holmes, Jackson, Manatee, Marion, Okeechobee, Orange, Palm Beach, Pasco, Polk, Sarasota, Seminole, St. Johns, and Washington. In addition, creating an airport authority under this act is discretionary. This bill does not eliminate the ability of a county or municipality from creating an independent special airport authority by special act of the Legislature.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates the Florida Airport Authority Act which states:

332.201 -- Provides short title of "Florida Airport Authority Act".

332.202 -- Provides definitions to be used in the Florida Airport Authority Act.

332.203 -- Authorizes any county, or two or more contiguous counties, by resolution, to form an airport authority; provides that the authority is an agency of the State; provides that

the governing body is comprised of five to nine voting members; provides that the district secretary of the affected department district serves as a non-voting member; requires each governing body member to remain a resident of the county that the member represents; provides that the Governor appoints two members of the authority, subject to Senate confirmation, who serve four year terms; prohibits the Governor's appointees from holding elective office during the appointment term; for a single-county authority, provides that the board of county commissioners appoints the remaining authority members; provides that single-county appointees serve three year terms; for multi-county authorities, provides that the remaining authority members are apportioned based on population; provides that each member is appointed by the applicable board of county commissioners; provides that multi-county appointees serve three year terms; provides for the election of a chair, secretary and treasurer; provides that the secretary and treasurer need not be authority members; provides that the chair, secretary and treasurer serve at the will of the authority; provides that a quorum is a majority of the governing board; provides that a majority vote of members present is needed to take any action; provides that a vacancy does not impair the right of a quorum or the authority's ability to exercise all of its rights and duties; provides that members shall assume office upon the effective date of their appointment; authorizes the employment of an executive secretary, executive director, counsel and legal staff, technical experts, engineers, and permanent and temporary employees; provides that the authority determines qualifications and compensation for such persons, firms, or corporations; authorizes the employment of a fiscal agent; requires the authority to solicit three sealed proposals prior to hiring a fiscal agent; authorizes the delegation of authority power to agents and employees; requires proper supervision and control; allows for the removal of authority members; provides for travel and other expenses in connection with authority business to authority members; prohibits salaries or other compensation; and requires authority members to comply with applicable financial disclosure requirements.

Section 322.204 -- Authorizes any authority created under this act to acquire, construct, maintain, and lease an airport system; allows for the construction of an airport system to be completed in phases or stages; authorizes the authority to construct extensions, improvements and appurtenant facilities, including roads; provides that an authority may only add additional airports to its system in accordance with this act and requires prior written consent from each county within the boundaries of the authority; requires additional airports to be financially feasible and consistent with existing authority plans and projects; grants all powers necessary to carry out authority purposes, including the following powers: to sue and be sued; to adopt and use a seal; to acquire and hold any franchise, real, personal, and mixed property; to enter into leases; to fix and collect rates, fees and other charges; requires the charges to comply with bond holder covenants; to borrow money, issue notes, bonds and other indebtedness; requires the indebtedness be issued pursuant to the State Bond Act; provides usage of bond revenues; requires that all bonds or indebtedness pledging the full faith and credit of the state be issued pursuant to the State Bond Act; to enter into contracts and other necessary instruments; to borrow money, receive grants, and enter into leases with any federal agency, the state, and other public bodies of the state; the power of eminent domain; the authority to pledge any part of authority revenues as security; the authority to perform all acts necessary to conduct business; to consider any unsolicited proposals from private entities and provide procedures for such proposals; states that municipality consent is not necessary for any project of an existing or new authority if the project is consistent with the municipal comprehensive plan, regardless of whether the projects lies within the municipality; provides that if the project is inconsistent with the local comp plan, then a hearing is held in which the project must be determined to be consistent with the state aviation system and the applicable strategic regional plan and that the regional interests clearly override the municipality's interest; prohibits the use or pledge of any county tax funds without the prior

written consent of the board of county commissioners of each county; requires any authority created under this act to comply with all statutory requirements relating to filing of reports and disclosure; prohibits any authority construction which is not consistent with federal aviation requirements, the state aviation system plan, and the county's comprehensive plan; and allows the governing body of the county to enter into interlocal agreements with the authority.

Section 332.205 -- Grants the authority to issue bonds, as provided by the State Bond Act, after receiving prior written consent of the board of county commissioners of each county within the authority.

Section 332.206 -- Allows the county to be appointed as agent of the authority for the purpose of constructing improvements; requires the authority to provide the county with copies of documents relating to such construction; requires the authority to request the county to do such construction work; and requires the authority to transfer the necessary funds for the construction to the county.

Section 332.207 -- Authorizes the authority to acquire private or public property and property rights through purchase, gifts, and eminent domain, including any land that is necessary to acquire required permits; authorizes the authority to condemn any necessary materials and property; requires the authority to exercise its power of eminent domain in the manner provided by law; states that the authority is not liable for any preexisting soil or groundwater contamination due solely to its ownership; provides that this exemption from liability does not affect the rights or liabilities of any past or future owners of the acquired property; provides that this exemption from liability does not affect the liabilities of any governmental entity for the results of its actions which create or exaberate a pollution source; and authorizes the authority and DEP to enter into an interagency agreements for the performance, funding, and remedial acts necessary for authority acquired property.

Section 332.208 -- Grants express authority and power to local governmental agencies and individuals to enter into agreements with the authority; and requires the agreements to be consistent with general law and carry out the purposes of this act.

Section 332.209 -- Provides that the state pledges that it will not limit or alter the rights vested in the authority and the department until all bonds are paid and discharged; provides that the state pledges that it will not limit or alter the rights and powers vested in the authority and the department which would be inconsistent with the due performance of any agreement between the authority and any federal agency; and allows the authority and department to exercise all powers granted so long as its necessary to carry out this act.

Section 332.210 -- States that the purpose of an airport authority benefits the state; provides that an authority is exempt from paying taxes and assessments; provides that the bonds issued by the authority, their transfer, and income, are exempt from taxation; and provides that the tax exemption does not apply to tax imposed under chapter 220 on debt obligations owned by corporations.

Section 332.211 -- Provides that the provisions of the act are not applicable to counties in which an airport authority has previously been created by an act of the Legislature.

Section 2: Provides effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There may be a minimal impact on state revenues if this act results in increased creations of airport authorities due to the express exemption from all taxation.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There may be a minimal impact on local governments revenues if this act results in increased creation of airport authorities due to the express exemption from all taxation.

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

Currently, airports are operated generally either as an office or department of a county or municipality, or as an authority created for that purpose. The private sector plays a significant role in operating and financing commercial airports, with private companies—airlines, concessionaires, and contractors—delivering most airport services. Airport funding comes from state and federal aviation programs, local funds, and revenues generated by the airport. A substantial portion of airport development is financed through long-term debt financed with airport generated revenues. Because the bill only provides an option for local governments to exercise for creating an authority to construct and operate an airport, it should have an insignificant fiscal impact on state and local governments. The bill does not provide additional revenues for airport construction or operation.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise the revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the tax authority that counties or municipalities have to raise revenue in the aggregate.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The Association of Counties does not oppose this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The bill as originally filed, only expressed legislative intent to create a statutory framework that could be used by a county to create an airport authority. On February 21, 2000, the Committee on Transportation considered a proposed committee substitute which created such a framework based on provisions similar to Part I of Chapter 348, F.S., the Florida Expressway Authority Act. The bill was reported favorably as a committee substitute.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:
    Prepared by: Staff Director:

    Phillip B. Miller   John R. Johnston

    AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:
    Prepared by: Staff Director:

    Laura L. Jacobs   Joan Highsmith-Smith