

By Senator Diaz de la Portilla

34-1439-02

1 A bill to be entitled
2 An act relating to airport authorities;
3 creating ss. 332.201, 332.202, 332.203,
4 332.204, 332.205, 332.206, 332.207, 332.208,
5 332.209, 332.210, and 332.211, F.S.; creating
6 the Florida Airport Authority Act; providing
7 definitions; providing that certain counties
8 shall form an airport authority; providing that
9 certain former military facilities redeveloped
10 and operated as an airport shall be redeveloped
11 and operated by an authority under the act, and
12 providing for membership of the governing body
13 of such authorities; providing for appointment
14 of members of the governing body of an
15 authority; providing for officers, employees,
16 expenses, removal from office, and application
17 of financial disclosure provisions; providing
18 purposes and powers of an authority; providing
19 restrictions on authority powers; providing for
20 issuance of bonds; providing that the county
21 may be appointed as an authority's agent for
22 construction; providing for acquisition of
23 lands and property; providing for cooperation
24 with other units, boards, agencies, and
25 individuals; providing a covenant of the state
26 with respect to bond issuance and agreements
27 with federal agencies; providing an exemption
28 from taxation; providing for applicability;
29 requiring members of the authority to file
30 financial disclosure; providing an effective
31 date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Sections 332.201, 332.202, 332.203,
4 332.204, 332.205, 332.206, 332.207, 332.208, 332.209, 332.210,
5 and 332.211, Florida Statutes, are created to read:

6 332.201 Short title.--Sections 332.201-332.211 may be
7 cited as the "Florida Airport Authority Act."

8 332.202 Definitions.--As used in this act, the term:

9 (1) "Agency of the state" means and includes the state
10 and any department of, or corporation, agency, or
11 instrumentality created, designated, or established by, the
12 state.

13 (2) "Airport" means any area of land or water, or any
14 manmade object or facility located therein, which is used, or
15 intended for public use, for the landing and takeoff of
16 aircraft, and any appurtenant areas which are used, or
17 intended for public use, for airport buildings or other
18 airport facilities or rights-of-way.

19 (3) "Airport system" means any and all airports within
20 the geographic boundaries of an airport authority established
21 pursuant to this act and appurtenant facilities thereto,
22 including, but not limited to, all approaches, roads, bridges,
23 and avenues of access for such airport.

24 (4) "Authority" means an airport authority established
25 pursuant to this act which is a body politic and corporate and
26 a public instrumentality.

27 (5) "Bonds" means and includes the notes, bonds,
28 refunding bonds, or other evidences of indebtedness or
29 obligations, in either temporary or definitive form, which an
30 authority issues pursuant to this act.

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1 (6) "Department" means the Department of
2 Transportation.

3 (7) "Division" means the Division of Bond Finance of
4 the State Board of Administration.

5 (8) "Express written consent" means prior express
6 written consent given in the form of a resolution adopted by a
7 board of county commissioners.

8 (9) "Federal agency" means and includes the United
9 States, the President of the United States, and any department
10 of, or corporation, agency, or instrumentality created,
11 designated, or established by, the United States.

12 332.203 Airport authority; formation; membership.--

13 (1) Any county having a population of more than 2.1
14 million people shall at the countywide election hold a
15 referendum in which the electors shall decide whether to form
16 an airport authority, which shall be an agency of the state,
17 pursuant to this act.

18 (2) The governing body of the authority shall consist
19 of seven voting members, two of whom shall be appointed by the
20 Governor subject to confirmation by the Senate. Each member of
21 the governing body must at all times during his or her term of
22 office be a permanent resident of the county which he or she
23 is appointed to represent.

24 (a) The two members of the governing body appointed by
25 the Governor, subject to confirmation by the Senate, shall
26 serve terms of 4 years. Such persons may not hold elective
27 office during their terms of office.

28 (b) Two members shall be appointed by the County
29 Ethics Commission.

30 (c) One member shall be appointed by the County Mayor.
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1 (d) Two members shall be appointed by the County
2 Commission. At least one of the members appointed by the
3 County Commission must possess expertise in airport security.

4 (3)(a) The governing body of each authority shall
5 elect one of its members as its chair and shall elect a
6 secretary and a treasurer, who need not be members of the
7 authority. The chair, secretary, and treasurer shall hold
8 their offices at the will of the governing body. A simple
9 majority of the governing body constitutes a quorum, and the
10 vote of a majority of those members present is necessary for
11 the governing body to take any action. A vacancy on a
12 governing body shall not impair the right of a quorum of the
13 governing body to exercise all of the rights and perform all
14 of the duties of the authority.

15 (b) Upon the effective date of his or her appointment,
16 or as soon thereafter as practicable, each appointed member of
17 a governing body shall enter upon his or her duties.

18 (4)(a) An authority may employ an executive secretary,
19 an executive director, its own counsel and legal staff,
20 technical experts, and such engineers and employees, permanent
21 or temporary, as it may require and shall determine the
22 qualifications and fix the compensation of such persons,
23 firms, or corporations. An authority may employ a fiscal agent
24 or agents; however, the authority must solicit sealed
25 proposals from at least three persons, firms, or corporations
26 for the performance of any services as fiscal agent. An
27 authority may delegate to one or more of its agents or
28 employees such of its power as it deems necessary to carry out
29 the purposes of this act, subject always to the supervision
30 and control of the authority.

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1 (b) Members of the governing body of an authority may
2 be removed from office by the Governor for misconduct,
3 malfeasance, misfeasance, or nonfeasance in office.

4 (c) Members of the governing body of an authority are
5 entitled to receive from the authority their travel and other
6 necessary expenses incurred in connection with the business of
7 the authority as provided in s. 112.061, but they may not draw
8 salaries or other compensation.

9 (d) Members of the governing body of an authority
10 shall be required to comply with the applicable financial
11 disclosure requirements of ss. 112.3144, 112.3148, and
12 112.3149.

13 (5) No member or spouse shall be the holder of the
14 stocks or bonds of any company, other than through ownership
15 of shares in a mutual fund, regulated by the authority, or any
16 affiliated company of any company regulated by the authority,
17 or be an agent or employee of, or have any interest in, any
18 company regulated by the authority or any affiliated company
19 of any company regulated by the authority, or in any firm
20 which represents in any capacity either companies which are
21 regulated by the authority or affiliates of companies
22 regulated by the authority. As a condition of appointment to
23 the council, each appointee shall affirm to the Speaker and
24 the President his or her qualification by the following
25 certification: "I hereby certify that I am not a stockholder,
26 other than through ownership of shares in a mutual fund, in
27 any company regulated by the authority or in any affiliate of
28 a company regulated by the authority, nor in any way, directly
29 or indirectly, in the employment of, or engaged in the
30 management of any company regulated by the authority or any
31 affiliate of a company regulated by the authority, or in any

1 firm which represents in any capacity either companies which
2 are regulated by the authority or affiliates of companies
3 regulated by the authority." A member of the authority shall
4 not contribute to the campaign account of any elected
5 official, nor solicit any campaign contributions for any
6 elected official.

7 332.204 Purposes and powers.--

8 (1)(a) An authority created and established pursuant
9 to this act may acquire, hold, construct, improve, maintain,
10 operate, own, and lease an airport system.

11 (b) Construction of an airport system may be completed
12 by an authority in segments, phases, or stages, in a manner
13 which will permit the expansion of these segments, phases, or
14 stages to the desired airport configuration. Each authority,
15 in the construction of an airport system, may construct any
16 extensions of, additions to, or improvements to, the airport
17 system or appurtenant facilities, including all necessary
18 approaches, roads, bridges, and avenues of access, with such
19 changes, modifications, or revisions of the project that are
20 deemed desirable and proper. An authority may only add
21 additional airports to an airport system, under the terms and
22 conditions set forth in this act, with the prior express
23 written consent of the board of county commissioners of each
24 county located within the geographic boundaries of the
25 authority, and only if such additional airports are
26 financially feasible, and are compatible with the existing
27 plans, projects, and programs of the authority.

28 (2) Each authority may exercise all powers necessary,
29 appurtenant, convenient, or incidental to the carrying out of
30 its purposes, including, but not limited to, the following
31 rights and powers:

1 (a) To sue and be sued, implead and be impleaded, and
2 complain and defend in all courts.

3 (b) To adopt, use, and alter at will a corporate seal.

4 (c) To acquire, purchase, hold, lease as lessee, and
5 use any franchise or property, real, personal, or mixed,
6 tangible or intangible, or any interest therein necessary or
7 desirable for carrying out the purposes of the authority and
8 to sell, lease as lessor, transfer, and dispose of any
9 property or interest therein at any time acquired by it.

10 (d) To enter into and make leases, either as lessee or
11 as lessor, in order to carry out the right to lease as set
12 forth in this act.

13 (e) To fix, alter, charge, establish, and collect
14 rates, fees, rentals, and other charges for the services and
15 facilities of the airport system, which rates, fees, rentals,
16 and other charges must always be sufficient to comply with any
17 covenants made with the holders of any bonds issued pursuant
18 to this act.

19 (f) To borrow money, make and issue negotiable notes,
20 bonds, refund bonds and other evidence of indebtedness, either
21 in temporary or definitive form, of the authority, which bonds
22 or other evidence of indebtedness may be issued pursuant to
23 the State Bond Act, to finance an airport system within the
24 geographic boundaries of the authority, and to provide for the
25 security of the bonds or other evidence of indebtedness and
26 the rights and remedies of the holders of the bonds or other
27 evidence of indebtedness. Any bonds or other evidence of
28 indebtedness pledging the full faith and credit of the state
29 shall only be issued pursuant to the State Bond Act.

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1 (g) To enter into contracts and to execute all
2 instruments necessary or convenient for the carrying on of its
3 business.

4 (h) Without limitation of the foregoing, to borrow
5 money and accept grants from, and to enter into contracts,
6 leases, or other transactions with, any federal agency, the
7 state, any agency of the state or county, or any other public
8 body of the state.

9 (i) To have the power of eminent domain, including the
10 procedural powers granted under chapters 73 and 74.

11 (j) To pledge, hypothecate, or otherwise encumber all
12 or any part of the revenues, rates, fees, rentals, or other
13 charges or receipts of the authority, as security for all or
14 any of the obligations of the authority.

15 (k) To do all acts and things necessary or convenient
16 for the conduct of its business and the general welfare of the
17 authority in order to carry out the powers granted to it by
18 law.

19 (l) An airport authority may consider any unsolicited
20 proposals from private entities and all factors it deems
21 important in evaluating such proposals. The airport authority
22 shall adopt rules or policies in compliance with s. 334.30 for
23 the receipt, evaluation, and consideration of such proposals
24 in order to enter into agreements for the planning design,
25 engineering, construction, operation, ownership, or financing
26 of its airport system. Such rules must require substantially
27 similar technical information as is required by Rule
28 14-107.0011(3)(a)-(e), Florida Administrative Code. In
29 accepting a proposal and entering into such an agreement, the
30 airport authority and the private entity shall for all
31 purposes be deemed to have complied with chapters 255 and 287.

1 Similar proposals shall be reviewed and acted on by the
2 authority in the order in which they were received. An
3 additional airport may only be constructed under this
4 paragraph with state and federal approval, and with the prior
5 express written consent of the board of county commissioners
6 of each county located within the geographical boundaries of
7 the authority.

8 (3) The use or pledge of any portion of county tax
9 funds may not be made without the prior express written
10 consent of the board of county commissioners of each county
11 located within the geographic boundaries of the authority.

12 (4) Any authority formed pursuant to this act shall
13 comply with all statutory requirements of general application
14 which relate to the filing of any report or documentation
15 required by law, including the requirements of ss. 189.4085,
16 189.415, 189.417, and 189.418.

17 (5) No airport authority shall undertake any
18 construction that is not consistent with federal aviation
19 requirements, the statewide aviation system plan, and the
20 county's comprehensive plan.

21 (6) The governing body of the county may enter into an
22 interlocal agreement with an authority pursuant to chapter 163
23 for the joint performance or performance by either
24 governmental entity of any corporate function of the county or
25 authority necessary or appropriate to enable the authority to
26 fulfill the powers and purposes of this act and promote the
27 efficient and effective transportation of persons and goods in
28 such county.

29 332.205 Bonds.--With the prior express written consent
30 of the board of county commissioners of each county located
31 within the geographic boundaries of an authority, bonds may be

1 issued on behalf of an authority as provided by the State Bond
2 Act.

3 332.206 County may be appointed agent of authority for
4 construction.--The county may be appointed by the authority as
5 its agent for the purpose of constructing improvements to an
6 airport system and for the completion thereof. In such event,
7 the authority shall provide the county with complete copies of
8 all documents, agreements, resolutions, contracts, and
9 instruments relating thereto; shall request the county to do
10 such construction work, including the planning, surveying, and
11 actual construction of the completion and improvements to the
12 airport system; and shall transfer to the credit of an account
13 of the county the necessary funds therefor.

14 332.207 Acquisition of lands and property.--

15 (1) For the purposes of this act, an airport authority
16 may acquire private or public property and property rights,
17 including rights of access, air, view, and light, by gift,
18 devise, purchase, or condemnation by eminent domain
19 proceedings, as the authority may deem necessary for any of
20 the purposes of this act, including, but not limited to, any
21 lands reasonably necessary for securing applicable permits,
22 areas necessary for management of access, borrow pits,
23 drainage ditches, water retention areas, replacement access
24 for landowners whose access is impaired due to the improvement
25 of an airport system, and replacement rights-of-way for
26 relocated rail and utility facilities; or for existing,
27 proposed, or anticipated transportation facilities within the
28 airport system. The authority may also condemn any material
29 and property necessary for such purposes.

1 (2) The right of eminent domain conferred by this act
2 must be exercised by an authority in the manner provided by
3 law.

4 332.208 Cooperation with other units, boards,
5 agencies, and individuals.--Express authority and power is
6 given and granted to any county, municipality, drainage
7 district, road and bridge district, school district, or other
8 political subdivision, board, commission, or individual in or
9 of this state to enter into contracts, leases, conveyances, or
10 other agreements within the provisions and purposes of this
11 act with an authority. An authority may enter into contracts,
12 leases, conveyances, and other agreements, to the extent
13 consistent with this chapter and chapters 330, 331, and 333
14 and other provisions of the laws of the state, with any
15 political subdivision, agency, or instrumentality of the state
16 and any federal agency, corporation, and individual, for the
17 purpose of carrying out the provisions of this act.

18 332.209 Covenant of the state.--The state does hereby
19 pledge to, and agrees with, any person, firm, corporation, or
20 federal or state agency subscribing to or acquiring the bonds
21 to be issued by an authority for the purposes of this act that
22 the state will not limit or alter the rights hereby vested in
23 an authority and the department until all bonds at any time
24 issued, together with the interest thereon, are fully paid and
25 discharged, insofar as the same affects the rights of the
26 holders of bonds issued hereunder. The state does further
27 pledge to, and agrees with, the United States that, in the
28 event any federal agency constructs, or contributes any funds
29 for the completion, extension, or improvement of, an airport
30 system or any part or portion thereof, the state will not
31 alter or limit the rights and powers of an authority and the

1 department in any manner which would be inconsistent with the
2 continued maintenance and operation of the airport system or
3 the completion, extension, or improvement thereof or which
4 would be inconsistent with the due performance of any
5 agreement between the authority and any such federal agency,
6 and the authority and the department shall continue to have
7 and may exercise all powers granted so long as the same shall
8 be necessary or desirable for carrying out the purposes of
9 this act and the purposes of the United States in the
10 completion, extension, or improvement of the airport system or
11 any part or portion thereof.

12 332.210 Exemption from taxation.--The effectuation of
13 the authorized purposes of an airport authority is in all
14 respects for the benefit of the people of the state, for the
15 increase of their commerce and prosperity, and for the
16 improvement of their health and living conditions. For this
17 reason, an authority is not required to pay any taxes or
18 assessments of any kind or nature whatsoever upon any property
19 acquired by it or used by it for such purposes or upon any
20 revenues at any time received by it. The bonds issued by or on
21 behalf of an authority, their transfer, and the income
22 therefrom, including any profits made on the sale thereof, are
23 exempt from taxation of any kind by the state or by any
24 political subdivision or other taxing agency or
25 instrumentality thereof. The exemption granted by this section
26 does not apply to any tax imposed under chapter 220 on
27 interest, income, or profits on debt obligations owned by
28 corporations.

29 332.211 Exemption from applicability.--This act does
30 not apply in a county in which an authority has been created
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1 pursuant to a general or special act of the Legislature for
2 the purpose of owning, building, or operating an airport.

3 Section 2. The provisions of the Florida Airport
4 Authority Act, sections 332.201-332.211, Florida Statutes,
5 shall not apply to any county that has created its own airport
6 authority.

7 Section 3. Members of the authority created pursuant
8 to the Florida Airport Authority Act, sections
9 332.201-332.211, Florida Statutes, shall file full and public
10 disclosure of financial interests pursuant to section
11 112.3144, Florida Statutes.

12 Section 4. This act shall take effect July 1, 2002.

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15 SENATE SUMMARY

16 Creates the Florida Airport Authority Act. Provides for
17 counties having a population of more than 2.1 million to
18 hold a referendum to decide whether to form an airport
19 authority. Provides for the membership of an authority.
20 Provides powers and duties of an airport authority.
21 Authorizes the board of county commissioners to issue
22 bonds on behalf of an airport authority within the
23 county. (See bill for details.)