

Bill No. HB 859, 1st Eng.

Amendment No. Barcode 272834

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Diaz de la Portilla moved the following amendment:

13 **Senate Amendment (with title amendment)**

14 On page 3, lines 1 and 2, delete those lines

16 and insert:

17 Section 2. Effective July 1, 2002, sections 332.201,
18 332.202, 332.203, 332.204, 332.205, 332.206, 332.207, 332.208,
19 332.209, 332.210, and 332.211, Florida Statutes, are created
20 to read:

21 332.201 Short title.--Sections 332.201-332.211 may be
22 cited as the "Florida Airport Authority Act."

23 332.202 Definitions.--As used in this act, the term:
24 (1) "Agency of the state" means and includes the state
25 and any department of, or corporation, agency, or
26 instrumentality created, designated, or established by, the
27 state.

28 (2) "Airport" means any area of land or water, or any
29 manmade object or facility located therein, which is used, or
30 intended for public use, for the landing and takeoff of
31 aircraft, and any appurtenant areas which are used, or

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1 intended for public use, for airport buildings or other
2 airport facilities or rights-of-way.

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

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

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

15 (6) "Department" means the Department of
16 Transportation.

17 (7) "Division" means the Division of Bond Finance of
18 the State Board of Administration.

19 (8) "Express written consent" means prior express
20 written consent given in the form of a resolution adopted by a
21 board of county commissioners.

22 (9) "Federal agency" means and includes the United
23 States, the President of the United States, and any department
24 of, or corporation, agency, or instrumentality created,
25 designated, or established by, the United States.

26 332.203 Airport authority; formation; membership.--

27 (1) Any county having a population of more than 2.1
28 million people shall at the countywide election hold a
29 referendum in which the electors shall decide whether to form
30 an airport authority, which shall be an agency of the state,
31 pursuant to this act.

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

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

11 (b) Two members shall be appointed by the County
12 Ethics Commission.

13 (c) One member shall be appointed by the County Mayor.

14 (d) Two members shall be appointed by the County
15 Commission. At least one of the members appointed by the
16 County Commission must possess expertise in airport security.

17 (3)(a) The governing body of each authority shall
18 elect one of its members as its chair and shall elect a
19 secretary and a treasurer, who need not be members of the
20 authority. The chair, secretary, and treasurer shall hold
21 their offices at the will of the governing body. A simple
22 majority of the governing body constitutes a quorum, and the
23 vote of a majority of those members present is necessary for
24 the governing body to take any action. A vacancy on a
25 governing body shall not impair the right of a quorum of the
26 governing body to exercise all of the rights and perform all
27 of the duties of the authority.

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

31 (4)(a) An authority may employ an executive secretary,

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1 an executive director, its own counsel and legal staff,
2 technical experts, and such engineers and employees, permanent
3 or temporary, as it may require and shall determine the
4 qualifications and fix the compensation of such persons,
5 firms, or corporations. An authority may employ a fiscal agent
6 or agents; however, the authority must solicit sealed
7 proposals from at least three persons, firms, or corporations
8 for the performance of any services as fiscal agent. An
9 authority may delegate to one or more of its agents or
10 employees such of its power as it deems necessary to carry out
11 the purposes of this act, subject always to the supervision
12 and control of the authority.

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

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

21 (d) Members of the governing body of an authority
22 shall be required to comply with the applicable financial
23 disclosure requirements of ss. 112.3144, 112.3148, and
24 112.3149.

25 (5) No member or spouse shall be the holder of the
26 stocks or bonds of any company, other than through ownership
27 of shares in a mutual fund, regulated by the authority, or any
28 affiliated company of any company regulated by the authority,
29 or be an agent or employee of, or have any interest in, any
30 company regulated by the authority or any affiliated company
31 of any company regulated by the authority, or in any firm

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1 which represents in any capacity either companies which are
2 regulated by the authority or affiliates of companies
3 regulated by the authority. As a condition of appointment to
4 the council, each appointee shall affirm to the Speaker and
5 the President his or her qualification by the following
6 certification: "I hereby certify that I am not a stockholder,
7 other than through ownership of shares in a mutual fund, in
8 any company regulated by the authority or in any affiliate of
9 a company regulated by the authority, nor in any way, directly
10 or indirectly, in the employment of, or engaged in the
11 management of any company regulated by the authority or any
12 affiliate of a company regulated by the authority, or in any
13 firm which represents in any capacity either companies which
14 are regulated by the authority or affiliates of companies
15 regulated by the authority." A member of the authority shall
16 not contribute to the campaign account of any elected
17 official, nor solicit any campaign contributions for any
18 elected official.

19 332.204 Purposes and powers.--

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

23 (b) Construction of an airport system may be completed
24 by an authority in segments, phases, or stages, in a manner
25 which will permit the expansion of these segments, phases, or
26 stages to the desired airport configuration. Each authority,
27 in the construction of an airport system, may construct any
28 extensions of, additions to, or improvements to, the airport
29 system or appurtenant facilities, including all necessary
30 approaches, roads, bridges, and avenues of access, with such
31 changes, modifications, or revisions of the project that are

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1 deemed desirable and proper. An authority may only add
2 additional airports to an airport system, under the terms and
3 conditions set forth in this act, with the prior express
4 written consent of the board of county commissioners of each
5 county located within the geographic boundaries of the
6 authority, and only if such additional airports are
7 financially feasible, and are compatible with the existing
8 plans, projects, and programs of the authority.

9 (2) Each authority may exercise all powers necessary,
10 appurtenant, convenient, or incidental to the carrying out of
11 its purposes, including, but not limited to, the following
12 rights and powers:

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

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

16 (c) To acquire, purchase, hold, lease as lessee, and
17 use any franchise or property, real, personal, or mixed,
18 tangible or intangible, or any interest therein necessary or
19 desirable for carrying out the purposes of the authority and
20 to sell, lease as lessor, transfer, and dispose of any
21 property or interest therein at any time acquired by it.

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

25 (e) To fix, alter, charge, establish, and collect
26 rates, fees, rentals, and other charges for the services and
27 facilities of the airport system, which rates, fees, rentals,
28 and other charges must always be sufficient to comply with any
29 covenants made with the holders of any bonds issued pursuant
30 to this act.

31 (f) To borrow money, make and issue negotiable notes,

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1 bonds, refund bonds and other evidence of indebtedness, either
2 in temporary or definitive form, of the authority, which bonds
3 or other evidence of indebtedness may be issued pursuant to
4 the State Bond Act, to finance an airport system within the
5 geographic boundaries of the authority, and to provide for the
6 security of the bonds or other evidence of indebtedness and
7 the rights and remedies of the holders of the bonds or other
8 evidence of indebtedness. Any bonds or other evidence of
9 indebtedness pledging the full faith and credit of the state
10 shall only be issued pursuant to the State Bond Act.

11 (g) To enter into contracts and to execute all
12 instruments necessary or convenient for the carrying on of its
13 business.

14 (h) Without limitation of the foregoing, to borrow
15 money and accept grants from, and to enter into contracts,
16 leases, or other transactions with, any federal agency, the
17 state, any agency of the state or county, or any other public
18 body of the state.

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

21 (j) To pledge, hypothecate, or otherwise encumber all
22 or any part of the revenues, rates, fees, rentals, or other
23 charges or receipts of the authority, as security for all or
24 any of the obligations of the authority.

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

29 (l) An airport authority may consider any unsolicited
30 proposals from private entities and all factors it deems
31 important in evaluating such proposals. The airport authority

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1 shall adopt rules or policies in compliance with s. 334.30 for
2 the receipt, evaluation, and consideration of such proposals
3 in order to enter into agreements for the planning design,
4 engineering, construction, operation, ownership, or financing
5 of its airport system. Such rules must require substantially
6 similar technical information as is required by Rule
7 14-107.0011(3)(a)-(e), Florida Administrative Code. In
8 accepting a proposal and entering into such an agreement, the
9 airport authority and the private entity shall for all
10 purposes be deemed to have complied with chapters 255 and 287.
11 Similar proposals shall be reviewed and acted on by the
12 authority in the order in which they were received. An
13 additional airport may only be constructed under this
14 paragraph with state and federal approval, and with the prior
15 express written consent of the board of county commissioners
16 of each county located within the geographical boundaries of
17 the authority.

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

22 (4) Any authority formed pursuant to this act shall
23 comply with all statutory requirements of general application
24 which relate to the filing of any report or documentation
25 required by law, including the requirements of ss. 189.4085,
26 189.415, 189.417, and 189.418.

27 (5) No airport authority shall undertake any
28 construction that is not consistent with federal aviation
29 requirements, the statewide aviation system plan, and the
30 county's comprehensive plan.

31 (6) The governing body of the county may enter into an

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1 interlocal agreement with an authority pursuant to chapter 163
2 for the joint performance or performance by either
3 governmental entity of any corporate function of the county or
4 authority necessary or appropriate to enable the authority to
5 fulfill the powers and purposes of this act and promote the
6 efficient and effective transportation of persons and goods in
7 such county.

8 332.205 Bonds.--With the prior express written consent
9 of the board of county commissioners of each county located
10 within the geographic boundaries of an authority, bonds may be
11 issued on behalf of an authority as provided by the State Bond
12 Act.

13 332.206 County may be appointed agent of authority for
14 construction.--The county may be appointed by the authority as
15 its agent for the purpose of constructing improvements to an
16 airport system and for the completion thereof. In such event,
17 the authority shall provide the county with complete copies of
18 all documents, agreements, resolutions, contracts, and
19 instruments relating thereto; shall request the county to do
20 such construction work, including the planning, surveying, and
21 actual construction of the completion and improvements to the
22 airport system; and shall transfer to the credit of an account
23 of the county the necessary funds therefor.

24 332.207 Acquisition of lands and property.--
25 (1) For the purposes of this act, an airport authority
26 may acquire private or public property and property rights,
27 including rights of access, air, view, and light, by gift,
28 devise, purchase, or condemnation by eminent domain
29 proceedings, as the authority may deem necessary for any of
30 the purposes of this act, including, but not limited to, any
31 lands reasonably necessary for securing applicable permits,

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1 areas necessary for management of access, borrow pits,
2 drainage ditches, water retention areas, replacement access
3 for landowners whose access is impaired due to the improvement
4 of an airport system, and replacement rights-of-way for
5 relocated rail and utility facilities; or for existing,
6 proposed, or anticipated transportation facilities within the
7 airport system. The authority may also condemn any material
8 and property necessary for such purposes.

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

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

26 332.209 Covenant of the state.--The state does hereby
27 pledge to, and agrees with, any person, firm, corporation, or
28 federal or state agency subscribing to or acquiring the bonds
29 to be issued by an authority for the purposes of this act that
30 the state will not limit or alter the rights hereby vested in
31 an authority and the department until all bonds at any time

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1 issued, together with the interest thereon, are fully paid and
2 discharged, insofar as the same affects the rights of the
3 holders of bonds issued hereunder. The state does further
4 pledge to, and agrees with, the United States that, in the
5 event any federal agency constructs, or contributes any funds
6 for the completion, extension, or improvement of, an airport
7 system or any part or portion thereof, the state will not
8 alter or limit the rights and powers of an authority and the
9 department in any manner which would be inconsistent with the
10 continued maintenance and operation of the airport system or
11 the completion, extension, or improvement thereof or which
12 would be inconsistent with the due performance of any
13 agreement between the authority and any such federal agency,
14 and the authority and the department shall continue to have
15 and may exercise all powers granted so long as the same shall
16 be necessary or desirable for carrying out the purposes of
17 this act and the purposes of the United States in the
18 completion, extension, or improvement of the airport system or
19 any part or portion thereof.

20 332.210 Exemption from taxation.--The effectuation of
21 the authorized purposes of an airport authority is in all
22 respects for the benefit of the people of the state, for the
23 increase of their commerce and prosperity, and for the
24 improvement of their health and living conditions. For this
25 reason, an authority is not required to pay any taxes or
26 assessments of any kind or nature whatsoever upon any property
27 acquired by it or used by it for such purposes or upon any
28 revenues at any time received by it. The bonds issued by or on
29 behalf of an authority, their transfer, and the income
30 therefrom, including any profits made on the sale thereof, are
31 exempt from taxation of any kind by the state or by any

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1 political subdivision or other taxing agency or
2 instrumentality thereof. The exemption granted by this section
3 does not apply to any tax imposed under chapter 220 on
4 interest, income, or profits on debt obligations owned by
5 corporations.

6 332.211 Exemption from applicability.--This act does
7 not apply in a county in which an authority has been created
8 pursuant to a general or special act of the Legislature for
9 the purpose of owning, building, or operating an airport.

10 Section 3. Effective July 1, 2002, the provisions of
11 the Florida Airport Authority Act, sections 332.201-332.211,
12 Florida Statutes, shall not apply to any county that has
13 created its own airport authority.

14 Section 4. Effective July 1, 2002, members of the
15 authority created pursuant to the Florida Airport Authority
16 Act, sections 332.201-332.211, Florida Statutes, shall file
17 full and public disclosure of financial interests pursuant to
18 section 112.3144, Florida Statutes.

19 Section 5. Except as otherwise expressly provided in
20 this act, this act shall take effect upon becoming a law.

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22

23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 On page 1, line 6, delete that line

26

27 and insert:

28 creating ss. 332.201, 332.202, 332.203,
29 332.204, 332.205, 332.206, 332.207, 332.208,
30 332.209, 332.210, and 332.211, F.S.; creating
31 the Florida Airport Authority Act; providing

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1 definitions; providing that certain counties
2 shall form an airport authority; providing that
3 certain former military facilities redeveloped
4 and operated as an airport shall be redeveloped
5 and operated by an authority under the act, and
6 providing for membership of the governing body
7 of such authorities; providing for appointment
8 of members of the governing body of an
9 authority; providing for officers, employees,
10 expenses, removal from office, and application
11 of financial disclosure provisions; providing
12 purposes and powers of an authority; providing
13 restrictions on authority powers; providing for
14 issuance of bonds; providing that the county
15 may be appointed as an authority's agent for
16 construction; providing for acquisition of
17 lands and property; providing for cooperation
18 with other units, boards, agencies, and
19 individuals; providing a covenant of the state
20 with respect to bond issuance and agreements
21 with federal agencies; providing an exemption
22 from taxation; providing for applicability;
23 requiring members of the authority to file
24 financial disclosure; providing effective
25 dates.

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