

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 977 CS

Regulation of Airports

SPONSOR(S): Adams

TIED BILLS:

IDEN./SIM. BILLS: SB 1808

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Domestic Security Committee	8 Y, 0 N, w/CS	Garner	Newton
2) Transportation Committee	13 Y, 0 N	Pugh	Miller
3) State Administration Council		Garner	Bussey
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

No requirement currently exists in federal or state law for a security plan to be developed at airports that do not provide scheduled commercial passenger service or large charter operations. In Florida, the Florida Department of Transportation's (FDOT) regulation of airports is limited to site approval, licensure for operation, and hazard regulation. Under these programs, the department conducts safety inspections to ensure that adequate area exists for flight operations, that airports will comply with zoning regulations, and that safe air-traffic patterns can be maintained, taking into account all other airports within the vicinity. Airports are licensed with FDOT, and have an annual renewal period.

HB 977 w/CS makes the renewal of an airport license for particular airports contingent upon the development and updating of a security plan that is consistent with recommendations of the Florida Airports Council (FAC) derived from Transportation Security Administration (TSA) guidelines. The bill also requires submission of certain administrative data contained in the security plans to the Florida Department of Law Enforcement for use in protecting designated critical infrastructure in the state. Airports required to develop such a plan are those that are publicly or privately owned, that are open to the public, that have at least one runway greater than 4,999 feet in length, and that do not host scheduled commercial passenger service or charter services regulated under 14 C.F.R. Part 139.

The bill requires FDOT to approve each required general aviation airport security plan, and to approve biennial updates to a plan. FDOT is directed to ensure that each plan is consistent with the guidelines established by TSA or the Florida Airports Council, and that it is sufficient to meet the security needs of the particular airport.

FDOT is prohibited from renewing an airport license or registration of any airport required to file a security plan under the provisions of the bill, unless that airport files an approved security plan or update, or is working in good faith to do so.

HB 977 w/CS does not raise any apparent constitutional or legal issues. It is expected to have a minimal fiscal impact on state and local governments.

The bill takes effect October 1, 2005.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 3/28/2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

HB 977 w/CS places an additional licensing requirement on certain general aviation airports in Florida by requiring them to develop approved security plans, and to update those plans biennially. No such requirement currently exists.

Maintain Public Security

HB 977 w/CS requires general aviation airports that are open to the public and capable of serving aircraft that may pose a threat if stolen, to develop an airport security plan. No such requirement exists in state or federal law.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Definition of "general aviation airport"

General aviation is typically described as all aviation other than scheduled commercial flights and military aviation. In conformity with this definition, and for purposes of this report, general aviation refers to flights operated under CFR 14, Part 91. General aviation aircraft span a broad range, from two-seat training airplanes to the most advanced long-range business jets; its operations include personal and recreational flying, traffic observation and news reporting, crop dusting, emergency medical evacuation, and business air travel. Florida has 112 registered general aviation airports.

Federal Measures

Since September 11, 2001, the majority of the transportation security resources has been focused on securing commercial service aviation. The federal government has spent billions of dollars on the protection and security of airports that serve scheduled commercial passenger service, and has thoroughly overhauled security regulations for commercial carriers and commercial service airports. By comparison, general aviation security has been largely ignored. Due to their vast number and widely differing characteristics, as well as economic development concerns, general aviation airports have received little federal attention, and little additional regulation.

Among the federal steps to protect general aviation are regulatory programs that focus on aircraft operators using aircraft with a weight of 12,500 pounds or more (the Twelve-Five Rule), on large private charter operations (the Private Charter Rule), and on corporate flight operations (TSA Access Certification – TSAAC). Other federal security measures include Flight School Security Awareness Training and operation of a General Aviation Security Hotline. TSA also has developed a set of recommended airport security guidelines that serve as a set of non-regulatory standards, or "best practices," for general aviation airports.

The Twelve-Five Rule requires that aircraft operators using aircraft with a maximum certified take-off weight (MTOW) of more than 12,500 pounds, and conducting operations in scheduled or charter service while carrying cargo or passengers, or both, carry out a security program that includes conducting criminal history records checks on flight crew members, and restricting access to the flight deck. The Private Charter Rule is similar to the Twelve-Five Rule, but adds additional requirements for aircraft operators using aircraft with an MTOW of greater than 45,500 kilograms (about 100,309 pounds) or with a seating configuration of 61 or more. The security program under this rule also requires pre-flight passenger screening and hardened cockpit doors.

TSA Access Certification is currently a pilot project launched in cooperation with the National Business Aviation Association (NBAA) at the Teterboro and Morristown Municipal Airports in New Jersey, and

the White Plains Airport in New York. According to TSA, the initiative is proceeding as a "proof of concept" to validate an NBAA-proposed security protocol, which would lead to a TSA Access Certification and a corporate waiver for international corporation-owned operations to and from the United States. Under the program, if the operators of corporate flight operations comply with an approved security protocol, they will be granted equal access to airports and airspace as is currently granted to scheduled air carriers. The program is currently being evaluated to determine its suitability for a national rollout.

The Flight School Security Awareness Training Rule requires a flight school to ensure that each of its flight school employees having direct contact with students receive both initial and recurrent security awareness training. Flight schools may either choose to use TSA's security awareness training program or develop their own program. If a flight school chooses to develop its own program, the program must adhere to standards set forth in the federal rule.

The TSA also has developed and implemented a general aviation hotline in partnership with the National Response Center. The hotline serves as a centralized reporting system for general aviation pilots, airport operators, and maintenance technicians wishing to report suspicious activity at their airfield. The hotline was developed in coordination with the Aircraft Owners and Pilots Association (AOPA) to complement the AOPA Airport Watch Program. This program will enlist the support of some 550,000 general aviation pilots to watch for and report suspicious activities that might have security implications. AOPA has distributed Airport Watch materials to 5,400 public-use general aviation airports pilot groups and individual pilots. To build on the success of these local efforts the program includes special materials including a video to train pilots to be alert for sinister people or activities on the airport.

Additionally, the TSA has developed security guidelines for general aviation airports. In April 2003, TSA requested the Aviation Security Advisory Committee (ASAC) to establish a working group made up of industry stakeholders to develop guidelines for security enhancements at privately and publicly owned and operated general aviation landing facilities. This listing of recommended guidelines, or "best practices," was designed to establish non-regulatory standards for general aviation airport security. The working group consisted of general aviation industry associations, airport operators, and state and federal government representatives, including a representative of the Florida Department of Transportation. Members of the working group discussed and reviewed numerous general aviation airport security recommendations, and industry best practices, which resulted in a report sent by ASAC to TSA, which used the document as a baseline for the development of its document titled, "Security Guidelines for General Aviation Airports." The document sets forth a set of federally endorsed guidelines for enhancing airport security at general aviation facilities, and is intended to provide general aviation airport owners, operators, and users with guidelines and recommendations that address aviation security concepts, technology, and enhancements.

Among the tools provided in the TSA guidelines is a method to discriminate security needs at differing airports. The Airport Characteristics Measurement Tool is a self-administered method by which an airport operator can assess an airport's security characteristics and decide which security enhancements would be most appropriate in that particular environment. In addition, the guidelines contain a security procedures template that provides a step-by-step process for the development of an individualized security plan to be followed in the event of an emergency. These guidelines may be applied on an entirely voluntary basis, as the federal government has, up to now, elected not to regulate general aviation airport security planning and infrastructure.

State Measures

FDOT has addressed physical security at a number of general aviation airports by providing funding for security enhancements through its aviation grants program. Pursuant to s. 332.007, F.S., these grants can only be spent on capital improvements unless an airport submits a request to FDOT requesting that its Work Program funding be shifted to pay for operating or security-related projects. According to

FDOT, the department provides up to 100 percent state priority funding for airport security improvements. To date, \$111 million has been programmed for airport security projects.

In addition, FDOT has partnered with the Florida Airports Council to produce and distribute the "Security Planning for General Aviation Airports" handbook, which is distributed to all of Florida's general aviation airports. The handbook incorporates the TSA "Security Guidelines for General Aviation Airports." Currently, FDOT is encouraging every public airport in Florida to have a security plan. Participation by general aviation airports in security planning activities is entirely voluntary, as the state, like the federal government, has not regulated this area.

Industry Measures

In Florida, the Florida Airports Council (FAC) has recommended to its membership a voluntary tiered approach to providing for security at the state's public general aviation airports. The system envisions five tiers, with the first tier including measures such as written security plans, signage, lighting, a best practices program, and patrols by local law enforcement agencies. The last tier envisions more costly improvements at public general aviation airports, such as 24-hour law enforcement patrols, air traffic control towers, electronic perimeter protection, and landside video surveillance covering access roads. The FAC has set a goal of reaching the first tier at all public general aviation airports within the current year. Currently, FAC is working with its members to encourage the development of individualized security plans for each public general aviation airport. To assist its members, FAC has developed the 2004 Security Planning for General Aviation Airports guidelines, which are based in part on TSA's Security Guidelines for General Aviation Airports.

FDOT's Role in Regulating Airports

While all airports are regulated by the federal government to some extent, the federal security regulations are limited to those airports providing scheduled commercial passenger service and certain charter services. No requirement currently exists in federal or state law for a security plan to be developed at airports that do not provide scheduled commercial passenger service or large charter operations.

In Florida, FDOT's regulation of airports is limited to site approval, licensure for operation, and hazard regulation. Under these programs, the department conducts safety inspections to ensure that adequate area exists for flight operations, that airports will comply with zoning regulations, and that safe air-traffic patterns can be maintained, taking into account all other airports within the vicinity. Airports are licensed with FDOT, and have an annual renewal period.

Effect of HB 977 w/CS

HB 977 w/CS makes the renewal of an airport license for particular general aviation airports contingent upon the development and updating of a security plan that meets the recommendations of FAC recommended security guidelines which are based on TSA's guidelines.

Airports required to develop such a plan are those that are publicly or privately owned, that are open to the public, that have at least one runway greater than 4,999 feet in length, and that do not host scheduled commercial passenger service or charter services regulated under 14 C.F.R. Part 139. According to the FDOT Aviation Office's Aviation Database, these criteria apply to 44 of the 112 general aviation airports in Florida.

The bill directs FDOT to approve each general aviation airport security plan required under the bill, and to approve biennial updates to the plans. FDOT also is directed to ensure that each plan is consistent with the guidelines established by FAC, and is sufficient to meet the security needs of the particular airport. HB 977 w/CS also requires the affected general aviation airports to submit to FDLE certain administrative data from their security plans, in a format to be determined by the agency.

FDOT is prohibited from renewing an airport license or registration of any airport required to file a security plan under the provisions of the bill, unless that airport files an approved security plan or update, or is working in good faith to do so.

The bill takes effect October 1, 2005.

C. SECTION DIRECTORY:

Section 1. Amends s. 330.30, F.S., providing that licensing of specified airports is contingent upon developing, filing, and updating an approved airport security plan. Specifies process.

Section 2. Provides an effective date of October 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Minimal. As part of their normal responsibilities, FDOT's Central Office airport inspectors will review the general aviation airport security plans.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See the FISCAL COMMENTS section, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section, below.

D. FISCAL COMMENTS:

Local governments that operate public general aviation airports required to file a security plan under the provisions of this bill may incur some cost in developing their plans. Because of the simplicity of the TSA and FAC guidelines, this cost is expected to be minimal. However, some such airports may determine it is necessary to consult experts in developing the plan, and therefore would incur the costs imposed by those experts. Private airports open to the public may be impacted similarly. According to the FDOT Aviation Database, only two privately-owned airports meet the criteria established in the bill – one in Indiantown and the Miami Seaplane Base.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

While the bill could require city or county owned airports to spend funds or take actions requiring the expenditure of funds in the development of security plans, the aggregate impact on cities and counties appears to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 16, 2005, the Committee on Domestic Security adopted one strike-everything amendment and reported the bill favorably as amended with a committee substitute.

The amendment removed from the bill provisions that would have required FDLE to approve the required security plans prior to filing them with FDOT. The amendment also included new language that requires submission to FDLE of certain administrative data from security plans to aid that agency in its mission of assessing threats and protecting designated critical infrastructure.