

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1143 Funding of Aviation Development Projects

**SPONSOR(S):** Grall

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1466

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	16 Y, 0 N	Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Commerce Committee			

### SUMMARY ANALYSIS

Under federal regulations, commercial service airports are categorized into large hub, medium hub, small hub, and non-hub airports, based upon the number of passenger boardings in a given year.

Under Florida law, when federal funds are not available, the Department of Transportation (DOT) may fund up to 80 percent of the costs for certain projects at airports that do not have any scheduled commercial service. DOT may only fund up to 50 percent of the project cost if the airport has scheduled commercial service.

The bill authorizes DOT to fund up to 80 percent of the costs for eligible airport projects, with a 20 percent local match at all publicly-owned, public-use general aviation airports and commercial service airports not classified as large hub, medium hub, or small hub airports by the Federal Aviation Administration (FAA).

Under the bill, eligible projects at the following commercial service airports could receive DOT funding of up to 80 percent of the project costs with a 20 percent local match: Daytona Beach International, Gainesville Regional, Melbourne International, Tallahassee International, and Vero Beach Regional Airports.

The bill has an indeterminate impact on state government expenditures and no impact on state government revenues or local government revenues or expenditures. The bill will increase the opportunity for certain airports to engage in state-funded aviation projects. See Fiscal Analysis for details.

The bill has an effective date of July 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Airport Oversight

At the federal level, the Federal Aviation Administration (FAA) is responsible for planning and developing a safe and efficient national airport system. This includes all programs related to airport safety and inspections and standards for airport design, construction, and operation. Federal law requires each commercial service airport to operate under a federal certificate and comply with federal aviation requirements. The FAA is responsible for national airport planning and environmental and social requirements and establishes policies related to airport rates and charges, compliance with grant assurances, and airport privatization.<sup>1</sup>

In Florida, the Department of Transportation (DOT) is responsible for planning airport systems and promoting the further development and improvement of airport facilities.<sup>2</sup> The owner or lessee of a proposed public airport<sup>3</sup> must receive DOT approval before site acquisition, construction, or establishment of a public airport facility.<sup>4</sup> DOT is also responsible for licensing public airport facilities before the operation of aircraft to or from the facility and must inspect such facilities prior to licensing or license renewal.<sup>5</sup> Florida law authorizes local governments to establish and operate airports<sup>6</sup> and governs airport zoning and land use issues.<sup>7</sup>

##### Airport Categories

Under federal regulations, a commercial service airport is defined as a public airport that the FAA determines has at least 2,500 commercial passenger boardings each year and is receiving scheduled passenger service.<sup>8</sup> A large hub airport is a commercial service airport that has at least 1 percent of the commercial passenger boardings in United States.<sup>9</sup> A medium hub airport is a commercial service airport that has at least 0.25 percent but less than 1 percent of the commercial passenger boardings in the United States.<sup>10</sup> A small hub airport is a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the commercial passenger boardings in the United States.<sup>11</sup> A non-hub airport has less than 0.05 percent of all commercial passenger boardings in the United States but has more than 10,000 passenger boardings.<sup>12</sup>

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<sup>1</sup> See Federal Aviation Administration, *Airports*, [https://www.faa.gov/about/office\\_org/headquarters\\_offices/arp/](https://www.faa.gov/about/office_org/headquarters_offices/arp/) (last visited on March 5, 2021).

<sup>2</sup> S. 332.001, F.S.

<sup>3</sup> Section 330.27(6), F.S. For purposes of DOT approval and licensure, the term “public airport” means an airport, publicly or privately owned, which is open for use by the public.

<sup>4</sup> S. 330.30(1), F.S.

<sup>5</sup> S. 330.30(2), F.S.

<sup>6</sup> See Ch. 332, F.S.

<sup>7</sup> See Ch. 333, F.S.

<sup>8</sup> 49 U.S.C. § 47102(7).

<sup>9</sup> 49 U.S.C. § 47102(11). Florida’s large hub airports are Miami International, Orlando International, Ft. Lauderdale/Hollywood International, and Tampa International.

<sup>10</sup> 49 U.S.C. § 47102(13). Florida’s medium hub airports are Southwest Florida International (Ft. Myers), Palm Beach International, and Jacksonville International.

<sup>11</sup> 49 U.S.C. § 47102(25). Florida’s small hub airports are Orlando Sanford International, St. Pete-Clearwater International, Pensacola International, Sarasota/Bradenton International, Northwest Florida-Beaches International (Panama City), Punta Gorda, Destin-Ft. Walton Beach, and Key West.

<sup>12</sup> 49 U.S.C. § 47102(14). Florida’s non-hub airports are Tallahassee International, Daytona Beach International, Melbourne International, and Gainesville Regional.

Nonprimary airports are commercial service airports that have at least 2,500 and no more than 10,000 passenger boardings each year.<sup>13</sup> Primary airports are commercial service airports that have more than 10,000 passenger boardings each year.<sup>14</sup>

### Federal Airport Funding

At the federal level, airports receive federal grants administered by the FAA. The main grant program for federal funds is the Airport Improvement Program (AIP). The AIP provides grants to public agencies — and, in some cases, to private owners and entities — for the planning and development of public-use airports.<sup>15</sup>

Eligible AIP projects include airport improvements related to enhancing airport safety, capacity, security, and environmental concerns. In general, airports may receive AIP funds for most airfield capital improvements or rehabilitation projects and, in some specific situations, for terminals, hangars, and nonaviation development. Certain professional services that are necessary for eligible projects may also be eligible. The FAA must be able to determine that the projects are justified based on civil aeronautical demand. The projects must also meet federal environmental and procurement requirements.<sup>16</sup>

### State Airport Funding

Sections 332.003 through 332.007, F.S., create the Florida Airport Development and Assistance Act (Act). The act provides the following duties of the Department of Transportation (DOT):

- Provide coordination and assistance for the development of a viable aviation system.
- Advise and assist the Governor in all aviation matters.
- Upon request, assist airport sponsors in airport master planning.
- Upon request, provide financial and technical assistance to public agencies which operate public-use airports<sup>17</sup> by making DOT resources available on a cost-reimbursement basis to such agencies for special needs of limited duration.
- Participate in research and development programs relating to airports.
- Administer DOT's participation in the program of aviation and airport grants.
- Develop, promote, and distribute supporting information and educational services.
- Encourage the maximum allocation of federal funds to local airport projects in this state.
- Support the development of land located within the boundaries of airports for the purpose of industrial or other uses compatible with airport operations.<sup>18</sup>

Section 332.007, F.S., relates to the administration and financing of aviation and airport programs and projects. DOT must prepare and continuously update an aviation and airport work program based on a collection of the local sponsors<sup>19</sup> proposed projects to be included in DOT's work program.<sup>20</sup> DOT's airport work program must separately identify development projects and discretionary capacity improvement projects.<sup>21</sup> DOT's airport work program must be consistent with the statewide aviation system plan and, to the maximum extent feasible, consistent with approved local government comprehensive plans. Projects involving DOT-administered funds to be undertaken and implemented

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<sup>13</sup> See Federal Aviation Administration, *Airports, Planning and Capacity, Airport Categories*, [https://www.faa.gov/airports/planning\\_capacity/categories/](https://www.faa.gov/airports/planning_capacity/categories/) (last visited on February 24, 2021). Florida's only non primary airport is Vero Beach Regional Airport.

<sup>14</sup> *Id.*

<sup>15</sup> See Federal Aviation Administration, *Airports, Airport Improvement Program (AIP), Overview: What is AIP?* <https://www.faa.gov/airports/aip/overview/> (last visited on February 24, 2021).

<sup>16</sup> Department of Transportation, Agency Analysis of 2021 House Bill 1143, p. 4. (February 25, 2021).

<sup>17</sup> Section 332.004(14), F.S., defines the term "public-use airport" as any publicly owned airport which is used or to be used for public purposes.

<sup>18</sup> S. 332.006, F.S.

<sup>19</sup> Section 332.004(15), F.S., defines the term "sponsor" as any eligible agency which, either individually or jointly with one or more eligible agencies, submits to the department an application for financial assistance for an airport development project in accordance with this act.

<sup>20</sup> DOT's work program is developed pursuant to s. 339.135, F.S.

<sup>21</sup> S. 332.007(2)(a), F.S.

by the airport sponsor must be included in the aviation and airport work program.<sup>22</sup> Assistance may only be provided for projects which are included in the department's adopted work program.<sup>23</sup>

Only projects or programs provided for in the Act that will contribute to the implementation of the state aviation system plan, that are consistent with and will contribute to the implementation of any airport master plan or layout plan, and that are consistent, to the maximum extent feasible, with the approved local government comprehensive plans are eligible for the expenditure of state funds in accordance with fund participation rates and priorities.<sup>24</sup>

Subject to appropriations, DOT may fund up to 50 percent of the portion of eligible airport project costs which are not funded by the federal government, except that DOT may initially fund up to 75 percent of the cost of land acquisition for a new airport or for the expansion of an existing airport which is owned and operated by a municipality, a county, or an authority.<sup>25</sup>

However, subject to appropriation, DOT may help fund the capital cost of eligible public airport and aviation development projects at a higher rate for various types of projects. When federal funds are not available, DOT may fund up to 80 percent of master planning and eligible aviation development projects at publicly owned, publicly operated airports. If federal funds are available, DOT may fund up to 80 percent of the nonfederal share of such projects. Such funding is limited to airports that have no scheduled commercial service.<sup>26</sup>

DOT requires statutory compliance via assurances included with each grant agreement. The agency certifies that, with respect to a project, it will comply, within its authority, with all applicable, current laws and rules of the state and local government, as well as DOT policies, guidelines, and requirements. The sponsor also certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as FAA advisories and FAA issued waivers. Failure by the agency to satisfactorily remedy the non-compliance absolves DOT's continued financial commitment to the project and immediately requires the agency to repay DOT the full amount of funds expended by DOT on a project.<sup>27</sup>

### **Effect of the Bill**

The bill authorizes DOT to fund up to 80 percent of the costs for eligible airport projects, with a 20 percent local match, at all publicly-owned, public-use general aviation airports and commercial service airports not classified as large hub, medium hub, or small hub by the FAA. Thus commercial service airports with less than approximately 470,000 passenger boardings per year will qualify for this funding.<sup>28</sup> This number will change over time with the number of passenger boardings at United States airports.

Based on current passenger boardings, the bill would allow DOT to fund eligible projects at up to 80 percent with a 20 percent local match at the following commercial service airports: Daytona Beach International, Gainesville Regional, Melbourne International, Tallahassee International, and Vero Beach Regional airports.

The bill has an effective date of July 1, 2021.

### **B. SECTION DIRECTORY:**

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<sup>22</sup> S. 332.007(2)(b), F.S.

<sup>23</sup> S. 332.007(3), F.S.

<sup>24</sup> S. 332.007(5), F.S.

<sup>25</sup> S. 332.006(6)(a), F.S.

<sup>26</sup> S. 332.007(6)(c), F.S.

<sup>27</sup> Florida Department of Transportation, Agency Analysis of 2021 House Bill 1143.

<sup>28</sup> FAA. Commercial Service Airports (Rank Order) based in Calendar Year 2019, September 25, 2020.

[https://www.faa.gov/airports/planning\\_capacity/passenger\\_allcargo\\_stats/passenger/media/cy19-commercial-service-enplanements.pdf](https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/media/cy19-commercial-service-enplanements.pdf) (last visited March 9, 2020).

**Section 1** Amends s. 332.007, F.S., relating to the administration and financing of airport programs and projects.

**Section 2** Provides an effective date of July 1, 2021.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate.<sup>29</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill changes the match requirement for certain commercial service airport projects for DOT aviation funds. This change will impact the opportunity of these airports to engage in these projects. However, the impact of the match is indeterminate.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill does not require rulemaking, nor does it provide a grant of rulemaking authority.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES