

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: CS/SB 1646

INTRODUCER: Transportation Committee and Senator Davis

SUBJECT: Commercial Service Airport Transparency and Accountability

DATE: April 5, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	<b>Fav/CS</b>
2.			GO	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1646 revises legislation enacted in 2020 relating to commercial service airport transparency and accountability. The bill:

- Defines the term “consent agenda;”
- Revises the website location on which a commercial service airport must provide a link to its airport master plan;
- Amends the requirement for posting a contract to the airport’s website to provide that any contract or contract amendment in excess of \$325,000, increased from \$65,000, must be posted on the airport’s website, and to expressly limit the requirement to contracts for the purchase of commodities or contractual services;
- Requires that commercial service airports use competitive solicitation processes for purchases of commodities and contractual services that exceed the threshold amount of \$325,000, increased from \$65,000;
- Specifies that governing bodies of certain categories of commercial service airports must approve, award, or ratify any contract for commodities or contractual services in excess of specified amounts as a separate line item on the governing body’s agenda with a reasonable opportunity for public comment; and prohibits approval, award, or ratification of such contracts as part of a consent agenda; and
- Makes technical and clarifying revisions.

The bill presents no apparent fiscal impact to the state or private sector. The fiscal impact to local governments and special districts that operate commercial service airports is indeterminate. See the “Fiscal Impact” heading below.

The bill takes effect July 1, 2023.

## II. Present Situation:

Neither state nor federal law establishes requirements for airport governance or ownership. As such, Florida airports operate under either a government department model (where the airport operates as a department of the local government) or an airport authority model (where the airport authority is created as either an independent or a dependent special district). Airport operation and administration is generally governed as part of the local government or special district that owns the airport.

### Commercial Service Airports

As defined in federal law, a “commercial service airport means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.”<sup>1</sup> For the calendar year 2021 (the latest posted data), the Federal Aviation Administration (FAA) classified 518 airports as commercial service airports nationwide. Out of these, 21 were located in Florida.<sup>2</sup> The locations of these airports at the time included Orlando, Miami, Fort Lauderdale, Tampa, Ft. Myers, West Palm Beach, Jacksonville, Sarasota, Sanford, Pensacola, Clearwater, Valparaiso, Panama City, Punta Gorda, Key West, Tallahassee, Daytona Beach, Gainesville, Melbourne, Sarasota, and Vero Beach.

As defined in state law, a “commercial service airport” is a primary airport as defined in 49 U.S.C. § 47102 (a commercial service airport with more than 10,000 passenger boardings each year) which is classified as a large, medium, or small hub airport by the FAA. The referenced federal law defines large, medium, and small hub airports respectively as follows:

- A commercial service airport that has at least 1.0 percent of the passenger boardings.
- A commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.
- A commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

According to the Florida Airports Council, commercial service airports support over 1,179,000 jobs and, along with other airport categories, facilitate generation of \$175 billion in economic activity.<sup>3</sup>

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<sup>1</sup> 49 U.S.C. § 47102(7).

<sup>2</sup> See [faa.gov](https://www.faa.gov/airports/airports/cy-2021-commercial-service-airports), [CY 2021 Commercial Service Enplanements Data \(9/16/2022\) \(faa.gov\)](https://www.faa.gov/airports/airports/cy-2021-commercial-service-airports) (last visited March 30, 2023). Commercial service airports can and do fall in and out of the classification category based on the number of enplanements.

<sup>3</sup> See the Florida Airport Council document, *Florida Aviation by the Numbers* (on file in the Senate Transportation Committee).

## Transparency and Accountability

In 2020, the Legislature created s. 332.0075, F.S., relating to commercial service airport transparency and accountability.<sup>4</sup> That section of law requires each airport's governing body<sup>5</sup> to establish and maintain a website to post information relating to the operation of a commercial service airport, including:

- All published notices of meetings and published meeting agendas of the governing body.
- The official minutes of each meeting of the governing body, which must be posted within seven business days after the date of the meeting in which the minutes were approved.
- The approved budget for the commercial service airport for the current fiscal year, which must be posted within seven business days after the date of adoption. Budgets must remain on the website for two years after the conclusion of the fiscal year for which they were adopted.
- A link to the Airport Master Plan for the commercial service airport on the FAA's website.
- A link to all financial and statistical reports for the commercial service airport on the FAA's website.
- Any contract or contract amendment executed by or on behalf of the commercial service airport in excess of \$65,000, which must be posted no later than seven business days after the commercial service airport executes the contract or contract amendment.
- Position and rate information for each employee of the commercial service airport, including, at a minimum, the employee's position title, position description, and annual or hourly salary, which information must be updated annually.<sup>6</sup>

Notwithstanding any other law, commercial service airports are subject to Chapter 287, F.S., for purchases of commodities or contractual services which exceed \$65,000. If the purchase of commodities or contractual services exceeds \$65,000, the purchase may not be made without receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies unless an exception applies as provided in s. 287.057(3), F.S., or an immediate danger to the public health, safety, or welfare or other substantial loss to the commercial service airport requires emergency action.<sup>7</sup>

A governing body must approve, award, or ratify all contracts executed by or on behalf of a commercial service airport in excess of \$325,000 as a separate line item on the agenda and must provide a reasonable opportunity for public comment. Such contracts may not be approved, awarded, or ratified as part of a consent agenda.<sup>8</sup>

## State Procurement

Chapter 287, F.S., provides statutory requirements for the procurement of goods and services by the state. The Legislature recognizes that fair and open competition is a basic tenet of public procurement. It is essential to the effective and ethical procurement of commodities and

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<sup>4</sup> Chapter 2022-156, Laws of Fla.

<sup>5</sup> Defined in s. 332.0075(1)(c), F.S., as the governing body of the county, municipality, or special district that operates a commercial service airport.

<sup>6</sup> Section 332.0075(2), F.S.

<sup>7</sup> Section 332.0075(3)(a), F.S.

<sup>8</sup> Section 332.0075(3)(b), F.S.

contractual services that there be a system of uniform procedures utilized by state agencies in managing and procuring commodities and contractual services, that detailed justification of agency decisions in the procurement of commodities and contractual services be maintained, and that adherence by the agency and the vendor to specific ethical considerations be required.<sup>9</sup>

Depending on the cost and characteristics of the needed goods or services, agencies may utilize a variety of procurement methods, which include:<sup>10</sup>

- Single source contracts, which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid, which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposal, which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate, which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services.

Florida law establishes five categories of purchase thresholds and requires entities to follow certain conditions when funds are expended in these amounts. The categories and amounts are:<sup>11</sup>

- CATEGORY ONE: \$20,000.
- CATEGORY TWO: \$35,000.
- CATEGORY THREE: \$65,000.
- CATEGORY FOUR: \$195,000.
- CATEGORY FIVE: \$325,000

For contracts for commodities or services in excess of \$35,000 (CATEGORY TWO), state agencies must utilize a competitive solicitation process;<sup>12</sup> however, certain contractual services and commodities are exempt from this requirement.<sup>13</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 332.0075, F.S., enacted in 2020 relating to commercial service airport transparency and accountability. The bill defines the term "consent agenda" to mean an agenda that consists of items voted on as a group and that does not provide the opportunity for public comment on each individual item before approval or disapproval by the governing body.

The bill revises the website location on which a commercial service airport must provide a link to its airport master plan by requiring the link to be posted on the airport's website, instead of on the FAA's website.

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<sup>9</sup> Section 287.001, F.S.

<sup>10</sup> See ss. 287.012(6) and 287.057, F.S.

<sup>11</sup> Section 287.017, F.S.

<sup>12</sup> Section 287.057(1), F.S., requires all projects that exceed the Category Two (\$35,000) threshold contained in s. 287.017, F.S., to be competitively bid.

<sup>13</sup> See s. 287.057(3), F.S.

The bill amends the requirement for posting a contract to the airport's website to provide that any contract or contract amendment in excess of \$325,000, increased from \$65,000, must be posted on the airport's website, and to expressly limit the requirement to contracts for the purchase of commodities or contractual services. Under the bill, the airport would not be required to post contracts unrelated to the purchase of commodities or contractual services on the airport's website.

The bill requires that commercial service airports use competitive solicitation processes for purchases of commodities and contractual services that exceed the threshold amount of \$325,000, increased from \$65,000.

Lastly, the bill requires a commercial service airport governing body to approve, award, or ratify any contract for commodities or contractual services as a separate line item on its agenda, with a reasonable opportunity for public comment, if such contract is executed by or on behalf of a commercial service airport that is classified by the FAA as a:

- Small hub airport and the contract amount exceeds \$500,000.
- Medium hub airport and the contract amount exceeds \$1 million.
- Large hub airport and the contract amount exceeds \$1.5 million.

A governing body may not approve, award, or ratify any such contract as part of a consent agenda.

The bill takes effect July 1, 2023.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Counties, municipalities, or special districts that operate a commercial service airport may experience an indeterminate but positive fiscal impact resulting from the increase in the threshold amounts that trigger competitive solicitation and more efficient procurement processes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 332.0075 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on April 4, 2023:**

The committee substitute:

- Removes the provision requiring a commercial service airport governing body to approve, award, or ratify all contracts for commodities or contractual services in excess of \$4 million as a separate line item, and
- Requires such governing body to approve, award, or ratify contracts for commodities or contractual services as a separate line item on the agenda, and to provide a reasonable opportunity for public comment, dependent on the FAA's classification of the commercial service airport as a small, medium, or large hub airport and on the amount of the contract.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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