

**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 Rules

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**BILL:** CS/CS/SB 908

**INTRODUCER:** Military and Veterans Affairs, Space, and Domestic Security Committee; Transportation Committee; and Senator Rodriguez

**SUBJECT:** Unmanned Aircraft Systems Act

**DATE:** April 18, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Proctor</u>	<u>Proctor</u>	<u>MS</u>	<u>Fav/CS</u>
3.	<u>Price</u>	<u>Twogood</u>	<u>RC</u>	<u>Pre-meeting</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 908 revises the definition of “critical infrastructure facility” for purposes of the operation of unmanned aircraft systems, or “drones,” over or near certain facilities and structures to include: water intake structures; water treatment facilities; wastewater treatment plants; pump stations; certain deepwater ports; railroad switching yards; certain airports; certain spaceport territories; certain military installations; or certain dams or other structures, such as locks, floodgates, or dikes, which are designed to maintain or control the level of navigable waterways.

The bill removes from state law:

- A virtually identical requirement under federal law that a person or governmental entity apply to the Federal Aviation Administration (FAA) to restrict or limit the operation of drones in close proximity to infrastructure and facilities that the person or governmental entity owns or operates; and
- A provision making the definition of “critical infrastructure facility” inapplicable to a drone operating in transit for commercial purposes in compliance with FAA regulations, authorizations, or exemptions.

The bill’s impact on state and local revenues is indeterminate. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Federal Law

Drones, or unmanned aerial vehicles and unmanned aerial systems, are considered to be aircraft subject to regulation by the FAA.<sup>1</sup> In February 2012, Congress passed the FAA Modernization and Reform Act of 2012 (Modernization Act), which required the FAA to safely open the nation's airspace to drones by September 2015.<sup>2</sup> The Modernization Act vested authority to regulate the use of drones to the FAA, as it does all aircraft in the national airspace, with an emphasis on safety, efficiency, and national security.<sup>3</sup>

Under the authority granted in the 2012 Act, the FAA issued its regulations on the operation and certification of small (less than 55 pounds at take-off) unmanned aircraft systems in June of 2016. The small drone regulations are still in effect.<sup>4</sup> Federal law also provides an exception for limited recreational operations of unmanned aircraft under specified conditions and, if the conditions are met, a person may operate a small unmanned aircraft without specific certification or operating authority from the FAA.<sup>5</sup>

Subsequent to the 2016 FAA regulations, Congress approved a 17-month extension of the authority of the FAA, known as the "Extension, Safety, and Security Act of 2016 (Extension Act)."<sup>6</sup> In addition to providing the FAA continued authority and funding to operate, the Extension Act required the FAA, by the end of 2016, to establish a process for operators or proprietors of fixed-site facilities to petition the FAA to prohibit or restrict the operation of an unmanned aircraft in close proximity to a fixed-site facility. The law provided that a "fixed-site facility" means only:

- Critical infrastructure, such as energy production, transmission, and distribution facilities and equipment;
- Oil refineries and chemical facilities;
- Amusement parks; and

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<sup>1</sup> FAA, Office of the Chief Counsel, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, p. 1, available at [https://www.faa.gov/sites/faa.gov/files/uas/resources/policy\\_library/UAS\\_Fact\\_Sheet\\_Final.pdf](https://www.faa.gov/sites/faa.gov/files/uas/resources/policy_library/UAS_Fact_Sheet_Final.pdf) (last visited March 17, 2023). Drones can range in size from wingspans of just inches to numerous feet and can vary in weight from ounces to thousands of pounds. They may be controlled manually or through an autopilot that uses a data link to connect the drone's pilot to the drone. See 72 FR 6689, Federal Aviation Administration (FAA), *Unmanned Aircraft Operations in the National Airspace System*, February 13, 2007, available at <https://www.federalregister.gov/documents/2007/02/13/E7-2402/unmanned-aircraft-operations-in-the-national-airspace-system> (last visited March 17, 2023).

<sup>2</sup> Pub. L. No. 112-95 (2012).

<sup>3</sup> However, land use, zoning, privacy, trespass, and law enforcement operations generally are not subject to federal regulation. See FAA, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, FAA Office of the Chief Counsel, December 17, 2015, p. 3, available at [https://www.faa.gov/sites/faa.gov/files/uas/resources/policy\\_library/UAS\\_Fact\\_Sheet\\_Final.pdf](https://www.faa.gov/sites/faa.gov/files/uas/resources/policy_library/UAS_Fact_Sheet_Final.pdf) (last visited March 17, 2023).

<sup>4</sup> See 14 C.F.R. part 107, *Small Unmanned Aircraft Systems*, available at [https://www.faa.gov/air\\_traffic/publications/atpubs/foa\\_html/chap19\\_section\\_6.html](https://www.faa.gov/air_traffic/publications/atpubs/foa_html/chap19_section_6.html) (last visited March 17, 2023).

<sup>5</sup> See 49 U.S.C. 44809, available at <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title49-section44809&num=0&edition=prelim> (last visited March 17, 2023). The conditions include, but are not limited to, flying the drone strictly for recreational purposes, from the surface to not more than 400 feet, within the visual line of sight.

<sup>6</sup> Pub. L. No. 114-190 (2016).

- Other locations that warrant such restrictions.<sup>7</sup>

By the time of passage of the FAA Reauthorization Act of 2018,<sup>8</sup> a 5-year reauthorization of funding, authorities, and responsibilities through fiscal year 2023 (September 30, 2023), the FAA had not established the petition process required of the 2016 law. The 2018 law revised the first-listed meaning of “fixed site facility” to mean only critical infrastructure, such as energy production, transmission, distribution facilities and equipment, and railroad facilities. The 2018 law also revised the requirement for the process of petitioning the FAA to prohibit or restrict operation of an unmanned aircraft in close proximity to a fixed-site facility by requiring, not later than March 31, 2019, the publication of a notice of proposed rulemaking to carry out the petition process requirements and issuance of a final rule not later than 12 months after publishing the notice.

Various types of airspace restrictions applicable to drones and their operation already exist. For example, the FAA lists restrictions that commonly affect drone flights, such as stadiums and sporting events,<sup>9</sup> near airports,<sup>10</sup> security sensitive airspace restrictions,<sup>11</sup> restricted or special use airspace,<sup>12</sup> and Washington D.C. The FAA also prohibits drone flying over an emergency or rescue operations relating to wildfires and hurricanes.<sup>13</sup>

The FAA has established additional resources for drone operators. For example, the FAA maintains a “No Drone Zone” web page to help identify areas where people cannot operate a drone.<sup>14</sup> A downloadable sign is available for use by public landowners that prohibits takeoff and landing of drones at a particular public location to inform operators of a local restriction. Such restrictions do not include flight in the airspace of the identified location (area).<sup>15</sup> Recreational

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<sup>7</sup> Pub. L. No. 114-190, s. 2209 (2016).

<sup>8</sup> Pub. L. No. 115-254 (2018).

<sup>9</sup> Major League Baseball, National Football League, NCAA Division One Football, and NASCAR Sprint Cup, Indy Car, and Champ Series races. Drone operations are prohibited within a radius of three nautical miles of the stadium or venue. See FAA, *Stadiums and Sporting Events*, available at [https://www.faa.gov/uas/getting\\_started/where\\_can\\_i\\_fly/airspace\\_restrictions/sports\\_stadiums](https://www.faa.gov/uas/getting_started/where_can_i_fly/airspace_restrictions/sports_stadiums) (last visited March 17, 2023).

<sup>10</sup> For details on flying drones near airports, see FAA, *Flying Near Airports*, available at [https://www.faa.gov/uas/getting\\_started/where\\_can\\_i\\_fly/airspace\\_restrictions/flying\\_near\\_airports](https://www.faa.gov/uas/getting_started/where_can_i_fly/airspace_restrictions/flying_near_airports) (last visited March 17, 2023).

<sup>11</sup> Drones are prohibited from flying over designated national security sensitive facilities from the ground up to 400 feet above ground level. Examples include military bases designated as Department of Defense facilities, national landmarks (e.g., the Statue of Liberty, Hoover Dam, Mt. Rushmore), and certain critical infrastructure such as nuclear power plants. See FAA, *Security Sensitive Airspace Restrictions*, available at [https://www.faa.gov/uas/getting\\_started/where\\_can\\_i\\_fly/airspace\\_restrictions/security\\_sensitive](https://www.faa.gov/uas/getting_started/where_can_i_fly/airspace_restrictions/security_sensitive) (last visited March 17, 2023).

<sup>12</sup> Examples include prohibited areas where aircraft flight, including drones, is prohibited, restricted areas where operations are hazardous to the operator, and temporary flight restrictions due to temporary hazardous conditions such as a wildfire, hurricane, or chemical spill; a security-related event such as the UN General Assembly, and other special situations such as VIP movement. See FAA, *Restricted or Special Use Airspace*, available at [https://www.faa.gov/uas/getting\\_started/where\\_can\\_i\\_fly/airspace\\_restrictions/tfr](https://www.faa.gov/uas/getting_started/where_can_i_fly/airspace_restrictions/tfr) (last visited March 17, 2023).

<sup>13</sup> *Id.*

<sup>14</sup> FAA, *No Drone Zone*, available at [https://www.faa.gov/uas/resources/community\\_engagement/no\\_drone\\_zone](https://www.faa.gov/uas/resources/community_engagement/no_drone_zone) (last visited March 17, 2023).

<sup>15</sup> *Id.* Only the FAA can restrict airspace, but the FAA provided the sign that can be used by state, local, territorial, or tribal government agencies to identify areas where local flight restrictions exist.

users may also download the free-of-charge “B4UFLY” app with interactive maps that help operators identify where they can and cannot fly.<sup>16</sup>

What the FAA has not yet accomplished, however, is issuance of a final rule establishing the criteria and procedures for the operator or proprietor of eligible fixed site facilities to apply to the FAA for a drone-specific flight restriction over such facilities. The FAA anticipates publishing the Notice of Proposed Rulemaking on June 30, 2023.<sup>17</sup>

### **State Action in the Absence of the FAA Rule**

Because the federal rule has not been issued providing a process for the granting of a drone-specific flight restriction, states have attempted to protect infrastructure and facilities deemed to be critical and in need of such drone-flight restriction. According to the National Conference of State Legislatures, since 2013, at least 44 states have enacted laws addressing drones, commonly defining what a drone is, how a drone can be used by law enforcement or other state agencies, how a drone can be used by the general public, and regulations for use of a drone in hunting game.<sup>18</sup>

Industry stakeholders and the U.S. Chamber of Commerce have reportedly urged the FAA to begin the rulemaking process, expressing the following:

The concern by these and other industry leaders is not simply that the failure to enact Section 2209 leaves ambiguity as to what infrastructure and facilities are considered “fixed site,” but a larger failure by the FAA to firmly establish that they hold sole authority to regulate the national airspace. Without the enactment of Section 2209, states have been enacting their own legislation to protect (and define) critical infrastructure sites, which has led to a patchwork [of] unwieldy and inconsistent laws.<sup>19</sup>

Because the FAA has regulatory authority over matters pertaining to aviation safety,<sup>20</sup> and because states are unclear as to which facilities are or are not “fixed site” facilities, and further because the FAA has not issued a rule establishing the criteria and procedures for the operator or proprietor of eligible fixed site facilities to apply to the FAA for a drone-specific flight restriction over such facilities, state statutes may be in conflict with the anticipated FAA rule. Any state statute, to the extent of any conflict with the expected FAA rule, will be preempted.

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<sup>16</sup> See FAA, *B4UFLY*, available at [https://www.faa.gov/uas/getting\\_started/b4uflly](https://www.faa.gov/uas/getting_started/b4uflly) (last visited March 17, 2023).

<sup>17</sup> See the FAA *Significant Rulemaking Report*, September 2022, available at <https://www.transportation.gov/sites/dot.gov/files/2022-09/September%202022%20Significant%20Rulemaking%20Report.v.1.z.pdf> (last visited March 17, 2023).

<sup>18</sup> See NCSL.org, *Current Unmanned Aircraft State Law Landscape*, available at [Current Unmanned Aircraft State Law Landscape \(ncsl.org\)](https://www.ncsl.org) (last visited March 17, 2023).

<sup>19</sup> See National Law Review, *Potential Consequences of the FAA’s Failure to Implement Section 2209*, available at [FAA’s Failure to Implement Section 2209 Brings Consequences \(natlawreview.com\)](https://www.natlawreview.com) (last visited March 17, 2023).

<sup>20</sup> See FAA, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, FAA Office of the Chief Counsel, December 17, 2015, available at [https://www.faa.gov/sites/faq/files/uas/resources/policy\\_library/UAS\\_Fact\\_Sheet\\_Final.pdf](https://www.faa.gov/sites/faq/files/uas/resources/policy_library/UAS_Fact_Sheet_Final.pdf) (last visited March 17, 2023).

## Florida Law

Florida's Unmanned Aircraft System Act<sup>21</sup> defines the term "drone" to mean a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.<sup>22</sup>

"Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and are posted on the property in a manner reasonably likely to come to the attention of intruders:

- An electrical power generation or transmission facility, substation, switching station, or electrical control center;
- A chemical or rubber manufacturing or storage facility;
- A mining facility;
- A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline;
- A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more;
- Any portion of an aboveground oil or gas pipeline;
- A wireless communications facility, including tower, antennae, support structures, and all associated ground-based equipment;
- A defined state correctional institution or private correctional facility;
- A defined secure detention center or facility, a high-risk residential facility, or a defined maximum-risk residential facility; and
- A defined county detention facility.<sup>23</sup>

Regulation of the operation of drones is vested in the state, except as provided in federal regulations, authorizations, or exemptions.<sup>24</sup> However, the statute does not limit the authority of a local government to enact or enforce local ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of drones if the laws or ordinances are not specifically related to the use of a drone for those illegal acts.<sup>25</sup>

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<sup>21</sup> Section 330.41, F.S.

<sup>22</sup> Section 934.50(2), F.S., "Unmanned aircraft system" means a drone and its associated elements, including communication links and the components used to control the drone which are required for the pilot in command to operate the drone safely and efficiently. Section 330.41(2)(b), F.S.

<sup>23</sup> Section 330.41(2)(a), F.S.

<sup>24</sup> "Except as otherwise expressly provided, a political subdivision may not enact or enforce an ordinance or resolution relating to the design, manufacture, testing, maintenance, licensing, registration, certification, or operation of an unmanned aircraft system, including airspace, altitude, flight paths, equipment or technology requirements; the purpose of operations; and pilot, operator, or observer qualifications, training, and certification." Section 330.41(3)(b), F.S.

<sup>25</sup> Section 330.41(3)(c), F.S.

Mirroring federal law relating to the petition process above but not yet accomplished, Florida law requires a person or governmental entity seeking to restrict or limit the operation of drones in close proximity to infrastructure or facilities that the person or governmental entity owns or operates to apply to the FAA for a designation pursuant to the Extension Act of 2016.<sup>26</sup>

A person may not knowingly or willfully:

- Operate a drone over a critical infrastructure facility;
- Allow a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
- Allow a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.<sup>27</sup>

A person who violates the above provisions commits a misdemeanor of the second degree, punishable by a definite term of imprisonment not exceeding 60 days,<sup>28</sup> plus a possible additional \$500 fine.<sup>29</sup>

The prohibitions do not apply to actions which are committed by:

- A federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity;
- A law enforcement agency that is in compliance with s. 934.50, F.S., or a person under contract with or otherwise acting under the direction of the law enforcement agency; or
- An owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of the owner, operator, or occupant.<sup>30</sup>

The state's definition of "critical infrastructure facility," and therefore the prohibitions against operating a drone over or near such a facility, also do not apply to a drone operating in transit for commercial purposes in compliance with FAA regulations, authorizations, or exemptions.<sup>31</sup>

To ensure that Florida is compliant with federal laws related to the regulation of drones, s. 330.41(4)(e), F.S., requires that the state's definition of "critical infrastructure facility," and therefore the provisions limiting the operation of drones over or near such facilities, sunset 60 days after the FAA adopts rules to designate "fixed-site" facilities and provides a process for specified entities to apply for exemptions and protection from drone use.<sup>32</sup> Section 330.41, F.S., must be construed in accordance with standards imposed by federal statutes, regulations, and FAA guidance.<sup>33</sup>

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<sup>26</sup> Section 330.41(3)(d), F.S.

<sup>27</sup> Section 330.41(4)(a), F.S.

<sup>28</sup> Section 775.082(4)(b), F.S.

<sup>29</sup> Section 775.083(1)(e), F.S.

<sup>30</sup> Section 330.41(4)(c), F.S.

<sup>31</sup> Section 330.41(4)(d), F.S.

<sup>32</sup> Section 330.41(4)(e), F.S.

<sup>33</sup> Section 330.41(5), F.S.

### III. Effect of Proposed Changes:

The bill amends s. 330.41, F.S., Florida's Unmanned Aircraft Systems Act, to include the following additional items in the state's definition of "critical infrastructure facility":

- A water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- A refinery;
- A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;
- A seaport listed in s. 311.09(1), F.S.,<sup>34</sup> which need not be completely enclosed by a fence or other physical barrier, or be marked with a sign or signs indicating that entry is forbidden;
- A inland port or other facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport;
- An airport as defined in s. 330.27, F.S.,<sup>35</sup>
- A spaceport territory as defined in s. 331.303(18), F.S.,<sup>36</sup>
- A military installation as defined in 10 U.S.C. s. 2801(c)(4);<sup>37</sup>
- An armory as defined in s. 250.01, F.S.,<sup>38</sup> and
- A dam as defined in s. 373.403(1), F.S.,<sup>39</sup> or other structures, such as locks, floodgates, or dikes, which are designed to maintain or control the level of navigable waters.

The bill also revises the existing inclusion in the definition of "critical infrastructure facility" a liquid natural gas or propane gas terminal or storage facility, by removing that the terminal or storage facility have a capacity of 4,000 gallons or more.

Except for the specified deepwater ports, the revised and added structures and facilities must be completely enclosed by a fence or other physical barrier or be clearly marked with a sign or signs that indicate that entry is forbidden, which must be posted on the property in a manner reasonably likely to come to the attention of intruders.

Any person who knowingly and willfully operates a drone over the specified additional facilities and structures; or allows a drone to make contact with one, including any person or object on the premises of or within the facility; or allows a drone to come within a distance of one that is close enough to interfere with the operations of or cause a disturbance to one is subject to a definite term of imprisonment not exceeding 60 days,<sup>40</sup> plus a possible additional \$500 fine,<sup>41</sup> except for

<sup>34</sup> Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

<sup>35</sup> An area of land or water used for, or intended to be used for, landing and takeoff of aircraft, including appurtenant areas, buildings, facilities, or rights-of-way necessary to facilitate such use or intended use. Section 330.27(2), F.S.

<sup>36</sup> The geographical area designated in s. 331.304, F.S., and as amended or changed in accordance with s. 331.329, F.S.

<sup>37</sup> A base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department or, in the case of an activity in a foreign country, under the operational control of the Secretary of a military department or the Secretary of Defense, without regard to the duration of operational control.

<sup>38</sup> A building or group of buildings used primarily for housing and training troops or for storing military property, supplies, or records.

<sup>39</sup> Any artificial or natural barrier, with appurtenant works, raised to obstruct or impound, or which does obstruct or impound, any of the surface waters of the state.

<sup>40</sup> Section 775.082(4)(b), F.S.

<sup>41</sup> Section 775.083(1)(e), F.S.

those actions committed by the identified entities, agencies, or persons to which these provisions do not apply as described above.

In addition, the bill strikes the current provision mirroring federal law, requiring a person or governmental entity seeking to restrict or limit the operation of drones in close proximity to infrastructure or facilities that the person or governmental entity owns or operates to apply to the FAA for the designation pursuant to s. 2209 of the FAA Extension, Safety, and Security Act of 2016. (See the “Related Issues” heading below.)

The bill also strikes the provision making the definition of “critical infrastructure facility” inapplicable to a drone operating in transit for commercial purposes in compliance with FAA regulations, authorizations, or exemptions. Operation of these drones would be restricted as provided in state law unless the state law conflicts with a federal definition of what constitutes a “fixed-site facility” or with any other federal law, regulation, or authorization.

The bill provides that effective on the same date that SB 264 or similar legislation takes effect the definition of “critical infrastructure facility” in s. 330.41, F.S., will include critical infrastructure facility as defined in s. 692.201, F.S.

Except as otherwise expressly provided in the bill, 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:**

Pursuant to the FAA Reauthorization Act of 2018, the U.S. Government Accountability Office (GAO) studied and reported on a number of issues relating to the regulatory framework to safely integrate drones into the national airspace. The GAO notes that “the



law on a number of key matters is in a state of flux.”<sup>42</sup> Among the issues discussed in the report is the “possible constitutionally-protected property rights in low-altitude airspace.”

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

A person who violates the provisions relating to protection of critical infrastructure facilities in s. 330.41(4), F.S., commits a second-degree misdemeanor, punishable by a definite term of imprisonment not exceeding 60 days,<sup>43</sup> plus a possible additional \$500 fine.<sup>44</sup>

### C. Government Sector Impact:

The bill’s impact on state and local revenues is indeterminate, as it is unknown how many violations may occur.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

As noted, the bill strikes from state law the current provision mirroring federal law, requiring a person or governmental entity seeking to restrict or limit the operation of drones in close proximity to infrastructure or facilities that the person or governmental entity owns or operates to apply to the FAA for such designation pursuant to s. 2209 of the FAA Extension, Safety, and Security Act of 2016. Mirroring federal law is not necessary,<sup>45</sup> as once the FAA issues a rule, the state will be bound by its terms to the extent that any state statute conflicts with that rule.

Moreover, the reference to the Extension Act of 2016 is outdated, as it is in the sunset provision

<sup>42</sup> See GAO, *Unmanned Aircraft Systems: Current Jurisdictional, Property, and Privacy Legal Issues Regarding the Commercial and Recreational Use of Drones*, available at <https://www.gao.gov/products/b-330570> (last visited March 17, 2023).

<sup>43</sup> Section 775.082(4)(b), F.S.

<sup>44</sup> Section 775.083(1)(e), F.S.

<sup>45</sup> The FAA Office of the Chief Counsel previously opined: “Substantial air safety issues are raised when state or local governments attempt to regulate the operation or flight of aircraft. If one or two municipalities enacted ordinances regulating UAS in the navigable airspace and a significant number of municipalities followed suit, fractionalized control of the navigable airspace could result. In turn, this ‘patchwork quilt’ of differing restrictions could severely limit the flexibility of FAA in controlling the airspace and flight patterns, and ensuring safety and an efficient air traffic flow. A navigable airspace free from inconsistent state and local restrictions is essential to the maintenance of a safe and sound air transportation system. See *Montalvo v. Spirit Airlines*, 508 F.3d 464 (9th Cir. 2007), and *French v. Pan Am Express, Inc.*, 869 F.2d 1 (1st Cir. 1989); see also *Arizona v. U.S.*, 567 U.S. 387, 132 S. Ct. 2492, 2502 (2012) (“Where Congress occupies an entire field . . . even complimentary state regulation is impermissible. Field preemption reflects a congressional decision to foreclose any state regulation in the area, even if it is parallel to federal standards.”), and *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 386-87 (1992).” *Supra* note 1 at p. 2.

set out in s. 330.41(4)(e), F.S. Either reference in Florida Statutes, if retained, should reference the FAA Reauthorization Act of 2018 or its successor.

**VIII. Statutes Affected:**

This bill substantially amends section 330.41 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/CS by Military and Veterans Affairs, Space, and Domestic Security on March 29, 2023:**

The committee substitute:

- Adds additional facilities and structures, and removes railroad switching yard to the existing definition of “critical infrastructure facility,” and revises the definition of military installation within the definition; and
- Provides that effective on the same date that SB 264 or similar legislation takes effect the definition of “critical infrastructure facility” will include critical infrastructure facility as defined in s. 692.201, F.S.

**CS by Transportation on March 14, 2023:**

The committee substitute:

- Adds a number of other facilities and structures to the existing definition of “critical infrastructure facility,” and revises an existing definition.
- Removes a provision making the definition of “critical infrastructure facility” inapplicable to a drone operating in transit for commercial purposes in compliance with FAA regulations, authorizations, or exemptions.

- B. **Amendments:**

None.