

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 937 Temporary Airports

**SPONSOR(S):** Transportation & Modals Subcommittee, Trabulsy, Bankson

**TIED BILLS:**           **IDEN./SIM. BILLS:** SB 1672

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	16 Y, 0 N, As CS	Lewis	Hinshelwood
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Infrastructure Strategies Committee			

### SUMMARY ANALYSIS

Florida law defines the term “temporary airport” to mean any airport that will be used for a period of less than 30 days with no more than 10 operations per day. The bill clarifies that flight operations at a temporary airport must operate under visual flight rules established by the Federal Aviation Administration and must be used for less than 30 consecutive days with no more than 10 operations per day.

Currently, Florida law does not clearly delineate the process for a temporary airport site approval and registration granted by the Florida Department of Transportation (DOT). In addressing matters related to temporary airports, the bill:

- Distinguishes temporary airports from public and private airports, clarifies the process for a temporary airport site approval, and combines temporary airport site approval and registration into one application for review by DOT.
- Requires DOT to publish the notice of receipt of a completed temporary airport registration application in the next available publication of the Florida Administrative Register and prevents DOT from approving a registration application in less than 14 days after the publication.
- Requires DOT to approve or deny a temporary airport registration application, concurrent with a temporary airport site approval, within 30 days of receiving a completed application.
- Provides that a completed registration application is deemed approved if the agency fails to act within the maximum 30 days, and requires written notification to DOT’s agency clerk of the applicant’s intent to rely on such default registration.
- Provides that DOT may not approve a subsequent temporary airport registration for the same general location if the purpose is to evade other applicable airport requirements.
- Aligns the flight restrictions imposed on a temporary airport used exclusively for aerial application or spraying of crops on a seasonal basis with the current definition of temporary airports by adding to the exemption, rather than relying on a cross-reference, that the frequency of operations does not exceed 10 operations per day.

The bill has an indeterminate fiscal impact on the state and the private sector.

The bill has an effective date of July 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Temporary Airports

##### Current Situation

Florida law defines “temporary airport” to mean any airport<sup>1</sup> that will be used for a period of less than 30 days with no more than 10 operations per day.<sup>2</sup>

Under federal law, as a general rule, persons proposing to construct, alter, activate, or deactivate a civil or joint-use airport, or to alter the status or use of such airport, are required to notify the Federal Aviation Administration (FAA).<sup>3</sup> Although federal law does not define temporary airports, federal law contains certain exclusions from federal airport regulations, such as an airport at which flight operations will be conducted under visual flight rules (VFR)<sup>4</sup> and which is used or intended to be used for a period of less than 30 consecutive days with no more than 10 operations per day.<sup>5</sup>

##### Effect of the Bill

The bill aligns the definition of a “temporary airport” with the federal exemption such that under Florida law a “temporary airport” means an airport at which flight operations are conducted under VFR established by the FAA and which is used for less than 30 consecutive days with no more than 10 operations per day.

#### Temporary Airport Site Approval

##### Current Situation

Under Florida law, the owner or lessee of a proposed airport must complete an application provided by the Florida Department of Transportation (DOT) and receive approval of the airport site before the acquisition, construction, or establishment of the proposed airport.<sup>6</sup> DOT shall grant the site approval if it is satisfied:

- That the site has adequate area allocated for the airport as proposed.
- That the proposed airport will conform to licensing or registration requirements and will comply with the applicable local government land development regulations or zoning requirements.
- That all affected airports, local governments, and property owners have been notified and any comments submitted by them have been given adequate consideration.
- That safe air-traffic patterns can be established for the proposed airport with all existing airports and approved airport sites in its vicinity.<sup>7</sup>

Public airport site approval applicants must submit a hardcopy application to DOT with supporting documentation.<sup>8</sup> Private airport site approval applicants must complete an interactive internet-based registration application using DOT’s electronic aviation facility data system.<sup>9</sup> In addition to the

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<sup>1</sup> S. 330.27(2), F.S., defines “airport” as 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.

<sup>2</sup> S. 330.27(7), F.S.

<sup>3</sup> 14 C.F.R § 157.1.

<sup>4</sup> Federal rule defines “Visual flight rules” (VFR) as the rules that govern the procedures for conducting flight under visual conditions. The term “VFR” is also used to indicate weather conditions that are equal to or greater than minimum VFR requirements. 14 C.F.R § 170.3.

<sup>5</sup> 14 C.F.R § 157.1(b).

<sup>6</sup> S. 330.30(1)(a), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> R. 14-60.005(3)(a), F.A.C.

<sup>9</sup> R. 14-60.005(3)(b), F.A.C.

application, public airports require a favorable physical inspection of the proposed site by DOT prior to approval.<sup>10</sup>

Site approval for both public and private airports may be granted subject to any reasonable conditions DOT deems necessary to protect the public health, safety, or welfare.<sup>11</sup> Such conditions shall include operations limited to VFR flight conditions, restricted approach or takeoff direction from only one end of a runway, specified air-traffic pattern layouts to help prevent mid-air collision conflict with aircraft flying at another nearby airport, airport noise abatement procedures in order to satisfy community standards, or other environmental compatibility measures.<sup>12</sup> The site approval shall remain valid for 2 years after the date of issuance.<sup>13</sup>

### Effect of the Bill

The bill distinguishes temporary airports from public and private airports, and clarifies the process for a temporary airport site approval. The bill provides that site approval shall be granted for a temporary airport only after receipt of documentation in a form and manner DOT deems necessary to satisfy the same conditions for public and private airports. Such documentation must be included with the application for a temporary airport registration.

The bill clarifies that site approval for a public airport or a private airport, but not a temporary airport, shall remain valid for 2 years after the date of issuance and that DOT may extend a public airport or private airport site approval for subsequent periods of 2 years per extension for good cause.

### **Temporary Airport Registration**

#### Current Situation

Under Florida law, the owner or lessee of any airport in this state must complete an application in a form and manner prescribed by DOT and receive either a public airport license or private airport registration prior to the operation of aircraft to or from the facility.<sup>14</sup>

For a public airport, DOT issues a license after a final airport inspection finds the facility to be in compliance with all requirements of the license.<sup>15</sup> For a private airport, DOT provides electronic access to the state aviation facility data system to permit the applicant to complete the registration. The registration is completed upon self-certification by the registrant.<sup>16</sup>

Currently, DOT may license a public airport or a private airport may register as a temporary airport if the airport meets the requirements established by DOT. Florida law states that the airport cannot endanger public health, safety, or welfare, and that the nonrenewable temporary license or registration is valid for less than 30 days.<sup>17</sup>

Each public airport license shall expire no later than 1 year after the effective date of the license, but can be extended for a maximum period of 18 months in specific circumstances.<sup>18</sup> Private airport registration must be recertified electronically within 24 months of the last certification, else (with specified exceptions) the registration will expire.<sup>19</sup>

### Effect of the Bill

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<sup>10</sup> S. 330.30(1)(b), F.S.

<sup>11</sup> S. 330.30(1)(d), F.S.

<sup>12</sup> R. 14-60.005(4), F.A.C.

<sup>13</sup> S. 330.30(4)(e), F.S.

<sup>14</sup> S. 330.30(2)(a), F.S.

<sup>15</sup> S. 330.30(2)(a)1., F.S.

<sup>16</sup> S. 330.30(2)(a)2., F.S.

<sup>17</sup> S. 330.30(2)(c), F.S.

<sup>18</sup> S. 330.30(2)(d)1., F.S.

<sup>19</sup> S. 330.30(2)(d)2., F.S.

The bill clarifies that the owner or lessee of an airport in this state shall have a public airport license, private airport registration, or temporary airport registration before the operation of aircraft to or from the airport.

The bill provides that for a temporary airport, DOT must publish notice of receipt of a completed registration application in the next available publication of the Florida Administrative Register and may not approve a registration application less than 14 days after the date of publication of the notice. DOT must approve or deny a registration application within 30 days after receipt of a completed application and must issue the temporary airport registration concurrent with the airport site approval.

The bill specifies that a completed registration application is considered approved if DOT fails to approve or deny the completed application within 30 days of receiving the completed application. Any applicant seeking to claim registration by default, must first notify the agency clerk of DOT, in writing, of the intent to rely on the default registration. The applicant may not take any action based on the default registration until receipt of such notice by the agency clerk.

The bill maintains that a temporary airport license or registration shall be valid for less than 30 days and is not renewable, but adds that DOT may not approve a subsequent temporary airport registration for the same general location if the purpose or effect is to evade otherwise applicable airport permitting or licensure requirements.

### **Airport Site Approval and Licensure and Registration Exemptions**

#### Current Situation:

Under current law a temporary airport used exclusively for aerial application or spraying of crops on a seasonal basis is exempt from temporary airport site approval and temporary airport licensure or registration requirements.<sup>20</sup>

#### Effect of the Bill:

The bill aligns the exemption for this type of temporary airport with the current definition of temporary airports by adding to the exemption, rather than relying on a cross-reference, that the frequency of operations does not exceed 10 operations per day.

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

**Section 1** Amends s. 330.27, F.S., relating to definitions.

**Section 2** Amends s. 330.30, F.S., relating to approval of airport sites; registration and licensure of airports.

**Section 3** Provides an effective date of July 1, 2023.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

Indeterminate. DOT's costs associated with the bill are unknown but are expected to be insignificant.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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

Indeterminate. Clarifying the process for temporary airport approval is intended to bring efficiency in the application for and use of temporary airports by the private sector.

**D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Rulemaking may necessary in order to conform to changes made by the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 10, 2023, the Transportation & Modals Subcommittee considered one amendment, which was adopted, and reported the bill favorably as a committee substitute. The committee substitute differs from HB 937 in that it:

- Clarifies that DOT must provide notice in the Florida Administrative Register only after a temporary airport application is deemed complete.
- Extends the time to 30 days from 14 days for FDOT to make a decision on whether to approve or deny an application.
- Specifies that an application is deemed approved if the agency fails to act within the maximum 30 days.