

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.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/CS/SB 1362

INTRODUCER: Fiscal Policy Committee; Appropriations Committee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senator Harrell

SUBJECT: Aviation

DATE: February 23, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Nortelus</u>	<u>Jerrett</u>	<u>ATD</u>	<u>Fav/CS</u>
3.	<u>Johnson</u>	<u>Yeatman</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1362 addresses issues relating to aviation and advanced air mobility. The bill:

- Revises definitions for “aircraft” and “airport.”
- Repeals the definition of “ultralight aircraft.”
- Requires vertiports to comply with airport site approval and airport licensing or registration laws.
- Requires the Florida Department of Transportation (FDOT) to take specified steps regarding advanced air mobility, including:
 - Address certain needs in the FDOT’s statewide aviation system plan and, as appropriate, in the FDOT’s work program.
 - Designate a subject matter expert on advanced air mobility to serve as a resource to local jurisdictions.
 - Provide a guidebook and technical resources related to advanced air mobility to local jurisdictions.
 - Ensure that a political subdivision does not exercise its zoning or land use authority to grant an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public use vertiports.
 - Conduct a review of airport hazard zone regulations and make recommendations to the Legislature.

- Requires airport land use compatibility zoning regulations to “address”, rather than “consider”, issues specified in statute.
- Generally prohibits residential construction and educational facilities within a specified buffer zone adjacent to an airport, if the airport has not conducted a noise study in order to better define adjacent areas that are incompatible with residential construction and educational facilities.
- Adds an exception to the buffer zone to allow residential property within the buffer zone of a public-use airport meeting specified requirements.
- Reenacts various provisions to incorporate changes made by the bill.

The bill has an indeterminate, negative fiscal impact to the FDOT. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Currently, Florida law does not address vertiports or advanced air mobility.

Advanced Air Mobility

The National Aeronautics and Space Administration (NASA) defines the term “Advanced Air Mobility” (AAM) to mean “an air transportation system that moves people and cargo between places previously not served or underserved by aviation – local, regional, intraregional, urban – using revolutionary new aircraft that are only just now becoming possible.”¹

AAM is a derivative of Urban Air Mobility (UAM), which focuses on transporting cargo and passengers at low altitudes within urban and suburban areas. AAM builds upon UAM by expanding its range and potential use cases.²

Numerous uses for AAM are being explored, including air taxi, air cargo, and public services. Air taxi uses feature passenger transportation within and around urban and regional areas, including routes connecting city centers to airports or to neighboring city centers. Air cargo uses feature cargo transportation supporting the middle-mile of logistics, generally seen as from the cargo port to the distribution center. Public service uses, such as search and rescue, disaster relief, and air ambulance operations are all likely early use cases for electric vertical take-off and landing (eVTOL) aircraft.³

Federal Guidance

In 2022, the Federal Aviation Administration (FAA) issued Engineering Brief 105, providing interim, but limited, guidance on vertiport design until the FAA publishes full Advisory Circular

¹ Florida Department of Transportation (FDOT), *Advanced Air Mobility*, <https://www.fdot.gov/aviation/advanced-air-mobility> (last visited January 8, 2024).

² FDOT Advanced Air Mobility Working Group, *Report and Recommendations*, August 2023, p.2. <https://www.fdot.gov/aviation/advanced-air-mobility> (last visited January 12, 2024).

³ *Id.* at 2.

on the topic.⁴ Use of this design guidance is required for federally obligated airports and recommended for all other vertiport development. The engineering brief provides guidance for landing dimensions, visual aids, approach surfaces, and electric charging infrastructure, among other details, but is limited to aircraft no longer or wider than 50 feet with a pilot-on-board operating in visual meteorological conditions. The FAA’s vertiport guidance is expected to evolve into a performance-based design standard as it moves forward with a full Advisory Circular, which is expected in the mid-2020s.⁵

Title 14 CFR Part 77, relating to the safe, efficient use, and preservation of navigable airspace, establishes standards and notification requirements for objects affecting navigable airspace. This notification serves as the basis for:

- Evaluating the effect of the construction or alteration on operating procedures;
- Determining the potential hazardous effect of the proposed construction on air navigation;
- Identifying mitigating measures to enhance safe air navigation; and
- Charting of new objects.

Notification allows the FAA to identify potential aeronautical hazards in advance thus preventing or minimizing the adverse impacts to the safe and efficient use of navigable airspace.⁶

Florida Department of Transportation’s AAM Working Group

In 2022, the Florida Department of Transportation (FDOT) established an AAM Working Group consisting of representatives of from the FAA, original equipment manufacturers, airports, local governments, the FDOT, and other industry stakeholders.⁷ The working group developed various recommendations regarding AAM, included in those recommendations are:

- Designate an AAM subject matter expert within the FDOT.
- Review airport hazard regulations and update those regulations as appropriate.
- Incorporate AAM into state transportation planning documents.
- Lead a statewide education campaign for local decision makers and a public awareness campaign for the general public.

Florida Airport Licensing Law

Sections 330.27 through 330.39, F.S., contain the Florida Airport Licensing Law.⁸ For purposes of the Florida Airport Licensing Law, the term:

- “Aircraft” means a powered or unpowered machine or device capable of atmospheric flight, except a parachute or other such device used primarily as safety equipment.⁹

⁴ Available at <https://www.faa.gov/sites/faa.gov/files/eb-105-vertiports.pdf> (last visited January 12, 2024).

⁵ *Id.*

⁶ Federal Aviation Administration (FAA), *Notification of Proposed Construction or Alteration on Airport Part 77*, available at <https://www.faa.gov/airports/central/engineering/part77#:~:text=Federal%20Regulation%20Title%2014%20Part%2077%20establishes%20standards,effect%20of%20the%20proposed%20construction%20on%20air%20navigation> (last visited February 8, 2024).

⁷ *Supra* note 2 at 1.

⁸ Section 330.39, F.S.

⁹ Section 330.27(1), F.S.

- “Airport” means 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.¹⁰
- “Ultralight aircraft” means any aircraft meeting the criteria established by part 103 of the Federal Aviation Regulations.¹¹

Airport Site Approval

Except as exempted by law,¹² the owner or lessee of a proposed airport must, before site acquisition or construction or establishment of the proposed airport, obtain FDOT’s approval of the airport site. FDOT must grant the site approval if it is satisfied:

- That the site has adequate area allocated for the proposed airport.
- 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 submitted comments have been adequately considered.
- That safe air-traffic patterns can be established for the proposed airport with all existing airports and approved airport sites in its vicinity.¹³

For public airports,¹⁴ FDOT may only grant site approval after inspection of the proposed airport site.¹⁵ For private airports¹⁶ or temporary airports,¹⁷ FDOT may only grant site approval after it receives the documentation it deems necessary to satisfy the conditions above.¹⁸

Airport Licensing or Registration

Except as provided, the owner or lessee of an airport must have a public airport license, private airport registration, or temporary airport registration before operating aircraft to or from the airport.¹⁹ A license for a public airport is granted after final inspection finds the airport in compliance with all licensure requirements.²⁰

For private airports obtaining an airport registration, upon granting site approval, FDOT must provide controlled electronic access to the state aviation facility data system to permit the

¹⁰ Section 330.27(2), F.S.

¹¹ Section 330.27(8), F.S.

¹² Exemptions from airport license and registration include airports owned by the United States, certain ultralight aircraft landing areas, certain helistops, and certain airports used for the aerial application or spraying of crops. *See s. 330.30(3), F.S.*

¹³ Section 330.30(1)(a), F.S.

¹⁴ Section 330.27(6), F.S., defines the term “public airport” to mean an airport, publicly or privately owned, which is open for use by the public.

¹⁵ Section 339.30(2)(c), F.S.

¹⁶ Section 330.27(5), F.S., defines the term “private airport” to mean an airport, publicly or privately owned, which is not open or available for use by the public, but may be made available to others by invitation of the owner or manager.

¹⁷ Section 330.27(7), F.S., defines the term “temporary airport” to mean an airport at which flight operations are conducted under visual flight rules established by the Federal Aviation Administration and which is used for less than 30 consecutive days with no more than 10 operations per day.

¹⁸ Section 330.30(2)(c) and (d), F.S.

¹⁹ Section 330.30(2)(a), F.S.

²⁰ Section 330.30(2)(a)1, F.S.

applicant to complete the registration process. Registration is completed upon self-certification by the registrant of operational and configuration data deemed necessary by FDOT.²¹

For public airports,²² FDOT may only grant site approval after inspection of the proposed airport site.²³ For private airports,²⁴ FDOT may only grant site approval after it receives the documentation it deems necessary to satisfy the conditions above.²⁵

Airport Licenses and Registration

Except as provided, the owner or lessee of an airport must have a public airport license, private airport registration, or temporary airport registration before operating aircraft to or from the airport.²⁶ A license for a public airport is granted after final inspection finds the airport in compliance with all licensure requirements.²⁷

For private airports obtaining a registration, upon granting site approval, FDOT must provide controlled electronic access to the state aviation facility data system to permit the applicant to complete the registration process. Registration is completed upon self-certification by the registrant of operational and configuration data deemed necessary by FDOT.²⁸

Airport Land Use Compatibility Zoning Regulations

Under Florida law, political subdivisions must adopt, administer, and enforce airport land use compatibility zoning regulations relating to airport hazard areas. The following are minimum requirements that political subdivisions must consider in their airport land use compatibility zoning regulations:

- The prohibition of new landfills and the restriction of existing landfills when such areas are:
 - Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft.
 - Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft.
 - Outside the perimeters above, but still within the lateral limits of the civil airport imaginary surfaces. Case-by-case review of such landfills is advised.
- Where any landfill is located and constructed in a manner that attracts or sustains hazardous bird movements from feeding, water, or roosting areas into, or across, the runways or approach and departure patterns of aircraft. The landfill operator must incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft.
- Where an airport authority or other governing body operating a public-use airport has conducted a noise study,²⁹ or where a public-use airport owner has established noise contours pursuant to another public study accepted by the FAA, the prohibition of incompatible uses,

²¹ Section 330.30(2)(a)2., F.S.

²² Section 330.27(6), F.S., defines the term “public airport” to mean an airport, publicly or privately owned, which is open for use by the public.

²³ Section 339.30(2)(c), F.S.

²⁴ Section 330.27(5), F.S., defines the term “private airport” to mean an airport, publicly or privately owned, which is not open or available for use by the public, but may be made available to others by invitation of the owner or manager.

²⁵ Section 330.30(2)(c) and (d), F.S.

²⁶ Section 330.30(2)(a), F.S.

²⁷ Section 330.30(2)(a)1, F.S.

²⁸ Section 330.30(2)(a)2., F.S.

²⁹ Noise studies are in accordance with 14 C.F.R. part 150.

as established in the noise study or as a part of an alternative FAA-accepted public study, within the noise contours established by any of these studies, except if such uses are specifically contemplated by such study with appropriate mitigation or similar techniques described in the study.

- Where an airport authority or other governing body operating a public-use airport has not conducted a noise study, the mitigation of potential incompatible uses associated with residential construction and any educational facility, with the exception of aviation school facilities, within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.
- The restriction of new incompatible uses, activities, or substantial modifications to existing incompatible uses within runway protection zones.³⁰

III. Effect of Proposed Changes:

Definitions

The bill amends various definitions to provide better clarity and specificity. For example, the bill amends the definition of the term “aircraft” to include, but not be limited to, an airplane, autogyro, glider, gyrodyne, helicopter, lift and cruise, multicopter, paramotor, powered lift, seaplane, tiltrotor, ultralight, and vectored thrust.

The bill also amends the definition of term “airport” to include, but not be limited to, an airpark, airport, gliderport, heliport, helistop, seaplane base, ultralight flightpark, vertiport, and vertistop.

The bill repeals the statutory definition of the term “ultralight aircraft”, which is unnecessary since the term is defined in federal law.

Vertiports

The bill provides that on or after July 1, 2024, the owner or lessee of a proposed vertiport must comply with statutory requirements for airport site approval and with airport licensing or registration requirements. In conjunction with granting site approval, the FDOT must conduct a final physical inspection of the vertiport to ensure compliance with all requirements for airport licensure or registration.

Advanced Air Mobility

The bill creates s. 332.15, F.S., relating to advanced air mobility. The bill requires the FDOT, within the resources provided pursuant to ch. 216, F.S., relating to planning and budgeting, to:

- Address the needs for vertiports, AAM, and other advances in aviation technology in the statewide aviation system plan and, as appropriate, in the FDOT’s work program.
- Designate a subject matter expert on AAM within the FDOT to serve as a resource for local jurisdictions navigating advances in aviation technology, including electric powered-lift aircraft and electric aviation.

³⁰ Section 333.03(2), F.S.

- Lead a statewide education campaign for local officials to provide education on the benefits of AAM to support the efforts to make the state a leader in aviation technology.
- Provide local jurisdictions with a guidebook and technical resources to support uniform planning and zoning language across the state related to AAM and other advances in aviation technology.
- Ensure that a political subdivision of the state does not exercise its zoning or land use authority to grant or permit an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public use vertiports within the jurisdiction of the subdivision.
- Conduct a review of airport hazard zone regulations and, as needed, make recommendations to the Legislature proposing any changes to regulations as a result of the review.

Airport Land Use Compatibility Zoning Regulations

The bill requires airport land use compatibility zoning regulations to “address”, rather than “consider”, issues specified in statute.

The bill generally prohibits residential construction and educational facilities within a specified buffer zone adjacent to an airport, if the airport has not conducted a noise study in order to better define adjacent areas that are incompatible with residential construction and educational facilities.

Additionally, the bill adds an exception to such buffer zone in order to allow residential property within the buffer zone of a public-use airport that has as its sole runway a turf runway measuring less than 2,800 in length.

Reenacted Statutes

The bill reenacts portions of s. 365.172, F.S., relating to emergency communications, s. 379.2295, F.S., relating to airport activities within a federally approved wildlife hazard management area, and s. 493.6101, F.S., relating to the definition of “repossession,” and s. 493.6403, F.S., relating to classes of licenses for repossession services to incorporate amendments to definitions made by the bill.

Effective Date

The bill takes effect July 1, 2024.

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:

The AAM industry may see a positive fiscal impact associated with including AAM in the state's aviation planning.

C. Government Sector Impact:

There may be an indeterminate negative fiscal impact to the FDOT associated with various tasks required by the bill, which can likely be absorbed with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 330.27, 330.30, and 333.03.

This bill creates section 332.15 of the Florida Statutes.

This bill reenacts portions of the following sections of the Florida Statutes: 365.172, 379.2293, 493.6101 and 493.6103.

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/CS by Fiscal Policy Committee on February 22, 2024:

The committee substitute:

- Requires airport land use compatibility zoning regulations to “address”, rather than “consider”, issues specified in statute.
- Generally prohibits residential construction and educational facilities within a specified buffer zone adjacent to an airport, if the airport has not conducted a noise study in order to better define adjacent areas that are incompatible with residential construction and educational facilities.
- Adds an exception to the buffer zone described above in order to allow residential property within the buffer zone of a public-use airport that has as its sole runway a turf runway measuring less than 2,800 in length.

CS/CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 8, 2024:

The committee substitute:

- Amends the definitions of “aircraft” and “airport.”
- Deletes the definition of “ultralight aircraft.”
- Requires owners of proposed vertiports to comply with specified statutes in obtaining sight approval and an airport license or registration.
- Requires FDOT to conduct a final inspection of vertiports.
- Requires FDOT to ensure that a political subdivision does not exercise its zoning and land use authority to grant or permit an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public-use vertiports.
- Reenacts various statutes to conform to changes made by amendment.
- Made other technical changes.

CS by Transportation on January 23, 2023:

The committee substitute clarifies that vertiports, electric aviation charging, and other advances in aviation technology must be included in the statewide aviation system plan and, as applicable, in the FDOT’s work program.

- B. **Amendments:**

None.