

STORAGE NAME: h1099a.tr.doc
DATE: April 4, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 1099
RELATING TO: Florida Airport Authority Act
SPONSOR(S): Representative(s) Diaz de la Portilla and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 13 NAYS 1
 - (2) LOCAL GOVERNMENT & VETERANS AFFAIRS
 - (3) FISCAL POLICY & RESOURCES
 - (4) COUNCIL FOR READY INFRASTRUCTURE
 - (5)
-

I. SUMMARY:

Currently, counties can either create an airport authority as a unit of local government, or seek a special act from the Legislature.

HB 1099 creates the "Florida Airport Authority Act." It would require any county with more than 1.5 million residents, and no existing airport authority, to schedule a referendum for local voters to decide whether to create an airport authority. The airport authority would be comprised of no fewer than five, but no more than nine, members; two would be appointed by the Governor, one by the county ethics commission, and the rest by the county governing board. The bill contains provisions governing the activities of such an authority, such as allowing it to acquire property, borrow money, and enter into agreements with individuals and other governmental entities. The bill is based on the same conceptual framework as the Florida Expressway Authority Act (Part I of Chapter 348, F.S.).

Only Dade and Broward counties are affected by HB 1099, based on the population threshold and because they currently do not have airport authorities.

The bill has an indeterminate, but probably insignificant, fiscal impact on state and local governments.

HB 1099 would take effect July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

HB 1099 gives voters in Miami-Dade and Broward counties the opportunity to create, via referendum, airport authorities to replace the units of county government that currently exist to manage aviation issues. These airport authorities will have power to fix rates, fees, rentals and other charges, and to borrow money.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Individual airport authorities have been created by enactment of local bills in a number of counties. At last count, there are 29 airport authorities in Florida, but not all of them are active. The authorizing language for these authorities appears as various chapters of the Laws of Florida, and are not codified in the Florida Statutes. In addition, many airports are operated by units of local government, generally as a department or office within the local government structure.

Prior to 1990, individual expressway, bridge and transportation authorities were created by specific legislative enactment in several counties. These authorities are set forth in Parts II through IX, of Chapter 348, F.S. Jacksonville has its transportation authority codified in Chapter 349, F.S. In 1990, the Legislature enacted Part I of Chapter 348, F.S., which allows any county, or two or more contiguous counties, to form their own expressway authority by resolution of the board or boards of county commissioners. This part provides for membership of the governing body and sets out provisions that would govern the activities of such an authority.

During the 2000 legislative session, CS/HB 315, 2nd engrossed, proposed the creation of the "Florida Airport Authority Act," modeled on Part I of Chapter 348, F.S. The bill passed the House by a vote of 115-2, but died in the Senate when the Legislature adjourned last May.

C. EFFECT OF PROPOSED CHANGES:

HB 1099 would create the Florida Airport Authority Act. Key provisions of the act include:

- Any county which has a population of more than 1.5 million people is required to schedule a countywide referendum giving voters the opportunity to approve the creation of an airport authority. Based on 2000 U.S. Census figures, Dade and Broward counties meet the population requirements.
- Such an authority could have from five to nine members, who must be permanent residents of the county they are representing. Two members would be appointed by the Governor (subject to confirmation by the state Senate); one would be appointed by the county ethics commission; and the remainder by the county governing board. The appropriate DOT district secretary will serve as a nonvoting member. The authority members will elect from among

their number the chairperson, and select a secretary and a treasurer who do not need to be authority members.

The Governor's appointees will have four-year terms, while the remaining members will serve three-year terms. The Governor's appointments may not hold any elective office during their terms on the authority.

The authority members must file full and public financial disclosure, pursuant to s. 112.3144, F.S.

- The authority may employ staff members and set the salaries for the following positions: executive director; executive secretary; counsel and legal staff; technical experts, consultants, and advisors; engineers and employees as it may require. It also may employ a fiscal agent, from among at least three persons or companies that submit sealed proposals.
- The authority must submit facility reports, audits and other reports required of special districts under Chapter 189, F.S., and it must notice its meetings and keep records, available to the public, of what transpired.
- An authority may acquire, hold, construct, improve, maintain, operate, own, and lease an airport system. Additional airports may be constructed only if the additional airport is financially feasible and compatible with the authority's existing plans. Each new airport must have the written consent of the board of county commissioners.
- The authority would be empowered to sue and be sued, adopt a corporate seal, acquire and use any real or personal property in carrying out its purposes, make leases or lease-purchase agreements, establish and collect fees, rentals and charges for its services and facilities, borrow money, and issue bonds under the State Bond Act, Chapter 215, F.S. It also could accept grants from and enter into contracts with a federal, state, or county agency, and would have the power of eminent domain.

Any bonds pledging the full faith and credit of the State of Florida would have to be issued by the Board of Administration's Division of Bond Finance on behalf of the authority, upon express written consent of the board of county commissioners.

The bill also contains standard "covenant of the state" language, specifying that the state pledges not to limit or alter the rights of the authority as it pertains to the authority's use of bonds.

- The authority also would be able to consider unsolicited proposals from private entities for planning, constructing, maintaining or operating its airport system. An airport constructed under this provision must have state and federal approval, and the prior express written consent of the board of county commissioners.
- The authority shall not undertake any construction that is not consistent with federal aviation requirements, the statewide aviation system plan, and the county's comprehensive plan.
- The authority may appoint the county as its agent for construction projects, and may enter into contracts, leases or other agreements with other governmental entities or individuals.
- The authority is exempt from all state and local taxes except for the corporate tax pursuant to Chapter 220, F.S.

HB 1099 is not applicable to a county in which an airport authority has been created by a general or special act of the Legislature, nor do its provisions apply to any county that has created its own airport authority.

The bill takes effect July 1, 2002.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates ss. 332.201-332.211, F.S., the Florida Airport Authority Act. Specifies membership, powers and duties of an authority created under this act. Specifies that such an authority is exempt from paying all state and local taxes, except for the corporate tax. Exempts counties who have airport authorities created by general or special act of the Legislature from the provisions of this act.

Section 2: Specifies that the provisions of this act do not apply to any county that has created its own airport authority.

Section 3: Requires members of airport authorities created pursuant to this act to file full and public disclosure of financial interests, pursuant to s. 112.3144, F.S.

Section 4: Specifies this act shall take effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. Presumably an existing airport that comes under the jurisdiction of an airport authority created pursuant to this act has been receiving state funds for projects, and that likely would continue.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. See "D. Fiscal Comments."

2. Expenditures:

Indeterminate. See "D. Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. See "D. Fiscal Comments."

D. FISCAL COMMENTS:

Currently, airports are operated generally either as an office or department of a county or municipality, or as an authority created for that purpose. The private sector plays a significant role in operating and financing commercial airports, with private companies C airlines, concessionaires, and contractors C delivering most airport services. Airport funding comes from state and federal aviation programs, local funds, and revenues generated by the airport. A substantial portion of airport development is financed through long-term debt financed with airport-generated revenues.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of HB 1099 because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 1099 does not reduce the revenue-raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 1099 does not reduce the state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

HB 1099 does not raise any apparent constitutional issues.

B. RULE-MAKING AUTHORITY:

Page 8, lines 23-28, of HB 1099 directs the airport authorities created under this act to adopt rules or policies in compliance with s. 334.30, F.S., that deal with accepting, reviewing, planning, financing, etc. "unsolicited proposals" from the private sector for airport projects. Section 334.30, F.S., regulates how the Department of Transportation handles private-sector proposals for private transportation projects.

C. OTHER COMMENTS:

HB 1099 incorporates much of its 2000 session predecessor, CS/HB 315, 2nd Engrossed, which originally allowed multiple counties to join together and create airport authorities. As such, authority membership requirements, project approvals, and other activities required consent or participation by the "board of county commissioners of each county located within the geographic boundaries of the authority." In preparing HB 1099, the drafters picked up that now-extraneous phrasing.

The bill also is unclear as to when an airport authority referendum would occur. Subsection (1) of s. 332.203, F.S., states, "Any county which has a population of more than 1.5 million people shall at *the countywide election* hold a referendum in which the electors shall decide whether to form an airport authority, which shall be an agency of the state, pursuant to this act." It is unclear whether the sponsor's intent is for the referendum to occur at the next countywide election following the July 1, 2002, effective date of HB 1099, or at any countywide election, which gives the county commissions of the two affected counties some discretion on when to bring the issue to a referendum.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

STORAGE NAME: h1099a.tr.doc

DATE: April 4, 2001

PAGE: 6

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Joyce Pugh

Phillip B. Miller