

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2572

SPONSOR: Comprehensive Planning Committee and Senator Garcia

SUBJECT: Airport Zoning

DATE: March 30, 2004 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CP	Fav/CS
2.			ED	
3.			TR	
4.			RC	
5.				
6.				

## I. Summary:

This Committee Substitute (CS) provides, for qualified counties, a less restrictive prohibition on the placement of educational facilities adjacent to or near airport facilities.

This bill amends sections 333.03 and 1013.36 of the Florida Statutes.

## II. Present Situation:

### Airports and Placement of Educational Facilities

Section 333.02, F.S., addresses airport hazards and uses of land in airport vicinities. Subsection (1) states, in part, that:

“...certain activities and uses of land in the immediate vicinity of airports ... are not compatible with normal airport operations, and may, if not regulated, also endanger the lives of the participants, adversely affect their health, or otherwise limit the accomplishment of normal activities.

Accordingly, this section declares:

- That the creation or establishment of an airport hazard and the incompatible use of land in airport vicinities are public nuisances and injure the community served by the airport in question;
- That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards and incompatible land uses be prevented; and

- That this should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation.

Paragraph 333.03(1)(a), F.S., requires political subdivisions<sup>1</sup> to “adopt, administer, and enforce” airport zoning regulations for such airport hazard area. Subsection (2) requires political subdivisions to adopt development regulations (or an interim airport land use compatibility zoning regulations) which must consider a number of factors. If the airport authority has conducted a noise study,

“...neither residential construction nor any educational facility as defined in chapter 1013, with the exception of aviation school facilities, shall be permitted within the area contiguous to the airport defined by an outer noise contour that is considered incompatible with that type of construction by 14 C.F.R. part 150, Appendix A or an equivalent noise level as established by other types of noise studies.”

If the airport authority has not conducted a noise study, “neither residential construction nor any educational facility as defined in chapter 1013” may be permitted 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.”

Subsection (3) requires that airport zoning regulations must be adopted which restrict

“...new incompatible uses, activities, or construction within runway clear zones... Such regulations shall prohibit the construction of an educational facility of a public or private school at either end of a runway of a publicly owned, public-use airport within an area which extends 5 miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway.”

However, an exemption may be granted for approving construction of an educational facility within the delineated area, but only after the political subdivision administering the zoning regulations “makes specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.”

Section 1013.36, F.S., requires that before acquiring property for sites, each district school board must determine the location of proposed educational centers or campuses, considering “existing and anticipated site needs and the most economical and practicable locations of sites.” However, subsection (3) provides that such sites

“...must not be located within any path of flight approach of any airport...or other property from which noise, odors, or other disturbances, or at which conditions, would be likely to interfere with the educational program.”

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<sup>1</sup> Political subdivision is defined in s. 333.01(9), F.S., as “any county, city, town, village, or other subdivision or agency thereof, or any district, port commission, port authority, or other such agency authorized to establish or operate airports in the state.

### III. Effect of Proposed Changes:

**Section 1** amends s. 333.03(2) and (3), F.S., to provide, for qualified counties, a less restrictive prohibition on the placement of educational facilities adjacent to or near airport facilities.

Currently, paragraph (2)(d) states that if the airport authority has not conducted a noise study, residential construction and educational facilities may be permitted 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.” However, this paragraph is amended to provide that in “any county as defined in s. 125.011(1),”<sup>2</sup> such area shall measure one-fourth the length of the longest runway on either side of and at end of each runway centerline.

Likewise, subsection (3) requires that airport zoning regulations must be adopted which restrict new incompatible uses, activities, or construction within runway clear zones. These regulations must prohibit the construction of an educational facility of a public or private school at either end of a runway of a publicly owned, public-use airport within an area which extends 5 miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. However, this subsection is amended to provide that “in any county as defined in s. 125.011(1)...” these regulations must prohibit this construction within an area which extends 2 miles in a direct line along the centerline of the runway, and which has a width measuring one-fourth the length of the runway.

**Section 2** amends s.1013.36(3), F.S., to reference the less restrictive prohibition on the placement of educational facilities adjacent to or near airport facilities for qualified counties.

**Section 3** provides that this act shall take effect July 1, 2004.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

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<sup>2</sup> s. 125.011(1), F.S., provides that “County” means any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Currently, only Miami-Dade County qualifies under this definition.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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