

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** HB 631 Airport Funding  
**SPONSOR(S):** Grall  
**TIED BILLS:** IDEN./SIM. BILLS: SB 780

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**FINAL HOUSE FLOOR ACTION:** 107 Y's 0 N's      **GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

HB 631 passed the House on February 25, 2022, and subsequently passed the Senate on March 2, 2022.

The Federal Aviation Administration (FAA) oversees the planning and development of airports across the nation with a focus on safety and security. In order to further its goal, the FAA provides grants through the Airport Improvement Program (AIP) for the funding of airport infrastructure projects. The FAA classifies all airports using data related to the number of passengers that board an aircraft (passenger boardings).

To qualify for AIP funding, an airport must be included in the National Plan of Integrated Airport Systems (NPIAS), a database which is published every two years. The NPIAS classifies airports by category and hub. The amount of funding through the AIP is dependent upon the classification of the airport.

The Florida Department of Transportation (DOT) provides financial assistance to airports in the areas of safety, security, preservation, capacity improvement, land acquisition, planning, and economic development through its Aviation Grant Program. The Aviation Grant Program is funded from the State Transportation Trust Fund. Unless otherwise provided in the General Appropriations Act or a substantive bill implementing it, DOT may participate, if funds are available, in the capital cost of eligible public airport and aviation development projects.

DOT may provide, when such funding is available, up to 50 percent of eligible project costs to commercial service airports. General aviation airports may receive up to 80 percent funding from DOT for eligible costs so long as the airport has no scheduled commercial service.

The bill permits DOT funding for up to 80 percent of eligible project costs for airports classified as commercial service or general aviation with fewer than 100,000 annual passenger boardings. DOT funding will continue to come from the Aviation Grant fund. Annual passenger boardings will be determined by the FAA.

The bill does not impact state or local government revenues. The bill appears to have an indeterminate impact on state and local government expenditures.

The bill was approved by the Governor on April 6, 2022, ch. 2022-52, L.O.F., and will become effective on July 1, 2022.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### Federal Classification and Funding of Airports

The Federal Aviation Administration (FAA) oversees the planning and development of airports across the nation with a focus on safety and security. In order to further its goal, the FAA provides grants through the Airport Improvement Program (AIP) for the funding of airport infrastructure projects.<sup>1</sup> Grants are available to publicly owned airports – and, in some cases, to privately owned airports – for planning and development,<sup>2</sup> airport noise compatibility planning,<sup>3</sup> and the implementation of those plans.<sup>4</sup>

The FAA classifies all airports using data related to the number of passengers that board an aircraft (passenger boardings).<sup>5</sup> The agency also considers the types of activities conducted at the airport, such as cargo service.

To qualify for AIP funding, an airport must be included in the National Plan of Integrated Airport Systems (NPIAS), a database which is published every two years.<sup>6</sup> The NPIAS identifies existing and proposed public-use airports that are deemed important to the national transportation system.<sup>7</sup> Additionally, the NPIAS classifies airports by category<sup>8</sup> and hub.<sup>9</sup> The amount of grants funded through the AIP are dependent upon the classification of the airport. Large and medium primary hubs can receive up to 75 percent of eligible costs while small primary, reliever, and general aviation airports are eligible for 90 to 95 percent of qualifying costs.<sup>10</sup> The table below shows the federal airport classification system.

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<sup>1</sup> 49 U.S.C. § 48103(a).

<sup>2</sup> 49 U.S.C. § 47104.

<sup>3</sup> 49 U.S.C. § 47505(a)(2).

<sup>4</sup> 49 U.S.C. § 47504(c).

<sup>5</sup> 49 U.S.C. § 47102(15) (defining “passenger boardings” as revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce).

<sup>6</sup> FAA Order 5090.5 s. 2.3.5, September 3, 2019.

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

<sup>8</sup> See FAA, *National Plan of Integration Airport Systems (2021-2025)*, September 2020 (explaining a category describes the type of service the airport currently provides to the community and is anticipated to provide at the end of the 5-year planning period).

<sup>9</sup> *Id.* (explaining a “hub” is defined in statute to delineate commercial service airports based on the percentage of total passenger enplanements).

<sup>10</sup> See FAA, *Overview: What is AIP?*, United States Department of Transportation, <https://www.faa.gov/airports/aip/overview/#:~:text=For%20large%20and%20medium%20primary, costs%2C%20based%20on%20statutory%20requirements> (last visited January 28, 2022).

Airport Classifications <sup>11</sup>		Hub Type: Percentage of Annual Passenger Boardings		Common Name
<b>Commercial Service:</b> Publicly owned airports that have at least 2,500 passenger boardings each calendar year and receive scheduled passenger service	<b>Primary:</b> Have more than 10,000 passenger boardings each year	<b>Large:</b> 1% or more <b>Medium:</b> At least 0.25% but less than 1% <b>Small:</b> At least 0.05% but less than 0.25% <b>Nonhub:</b> More than 10,000 but less than 0.05%	<b>Large Hub</b>  <b>Medium Hub</b>  <b>Small Hub</b>  <b>Nonhub Primary</b>	
	<b>Nonprimary</b>	<b>Nonhub:</b> At least 2,500 and no more than 10,000	<b>Nonprimary Commercial Service</b>	
<b>Nonprimary</b> (other than commercial service)		<b>N/A</b>	<b>Reliever</b>	

### Florida Airport Funding

The Florida Department of Transportation (DOT) is tasked with the duty, function, and responsibility of planning airport systems in the state.<sup>12</sup> DOT is also responsible for the creation and periodic update of the statewide aviation system plan.<sup>13</sup> Any proposed airport<sup>14</sup> must receive DOT approval for any and all site acquisitions, construction, or establishment of airport facilities. A public airport<sup>15</sup> is required to obtain a license from DOT prior to receiving or sending any aircraft from its location, subject to inspection upon initial application for the license and renewal. While DOT operates on a statewide level, local governments are charged with adopting, administering, and enforcing airport land use compatibility zoning regulations.<sup>16</sup>

DOT is charged with coordinating and assisting in the development of a viable aviation system within the state.<sup>17</sup> It statewide aviation system plan must be developed and periodically updated with 5-year, 10-year, and 20-year summaries for the state's needs.<sup>18</sup> The plans set forth by DOT must be consistent with the goals of the Florida Transportation Plan and with approved local airport master plans.<sup>19</sup> DOT provides financial assistance to airports in the areas of safety, security, preservation, capacity improvement, land acquisition, planning, and economic development through its Aviation Grant Program.<sup>20</sup> The Aviation Grant Program is funded from the State Transportation Trust Fund, which Florida's aviation industry contributes to through the state aviation tax of 4.27 cents per gallon of fuel.<sup>21</sup> Unless otherwise provided in the General Appropriations Act or a substantive bill implementing it, DOT may participate, if funds are available, in the capital cost of eligible *public* airport and aviation development projects.<sup>22</sup> Operational expenses are often not considered eligible for aviation grants.<sup>23</sup>

<sup>11</sup> See 42 U.S.C. § 47102.

<sup>12</sup> S. 332.001, F.S.

<sup>13</sup> S. 332.006, F.S.

<sup>14</sup> See s. 330.27(2), F.S.

<sup>15</sup> See s. 330.27(6), F.S. (defining "public airport" as an airport, publicly or privately owned, which is open for use by the public).

<sup>16</sup> S. 333.03, F.S.

<sup>17</sup> S. 332.006(1), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> See Florida Department of Transportation, Grant Program, available at <https://www.fdot.gov/aviation/fundinginfo.shtm> (last visited on December 14, 2021).

<sup>21</sup> S. 206.9825, F.S.

<sup>22</sup> S. 332.007(6), F.S. (emphasis added).

<sup>23</sup> The Florida Department of Transportation – Aviation Office, *Florida Aviation Project Handbook 2021-2022*, pg. 7 (2021), [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/florida-aviation-project-handbook-\(2020-2021\)v7b5cc93c31f25452db01244377cc65215.pdf?sfvrsn=2ee80049\\_12](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/florida-aviation-project-handbook-(2020-2021)v7b5cc93c31f25452db01244377cc65215.pdf?sfvrsn=2ee80049_12) (last visited January 28, 2022).

When federal funding is available through an AIP grant, DOT may fund up to 50 percent of the nonfederal share of eligible project costs for commercial service airports.<sup>24</sup>The FAA determines the types of persons or entities eligible for AIP grant funding, as well as the types of projects that may be included in a grant.<sup>25</sup> General aviation airports may receive up to 80 percent of master planning and eligible aviation development project costs from DOT if federal funds are not available.<sup>26</sup> If federal funds are available, DOT may fund up to 80 percent of the nonfederal share of such projects.<sup>27</sup> DOT funding of up to 80 percent is limited to those airports having no scheduled commercial service.<sup>28</sup> Certain strategic airport investment projects are eligible for up to 100 percent funding from DOT, whether classified as commercial service or general aviation.<sup>29</sup>

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TYPICAL FUNDING PERCENTAGES BY AIRPORT TYPE			
Commercial Service Airports*			
Type of Airport	Percentage of Funding		
	FAA	FDOT	Local
Large Hub	75%	12.5%	12.5%
Medium Hub			
Small Hub	90%	5%	5%
Nonhub Primary			
Nonprimary Commercial Service			
No FAA (AIP) Funding	0%	50%	50%
General Aviation Airports*			
Type of Airport	Percentage of Funding		
	FAA	FDOT	Local
General Aviation	90%	8%	2%
No FAA (AIP) Funding	0%	80%	20%

\*These are typical funding percentages. There are many exceptions to both FAA and FDOT typical funding percentages.

### Vero Beach Regional Airport

Vero Beach Regional airport was classified as a nonprimary commercial service, nonhub<sup>31</sup> airport in 2017 by the FAA.<sup>32</sup> In 2018, annual passenger boardings surpassed the 10,000 threshold, reclassifying

<sup>24</sup> S. 332.007(6)(a), F.S.; AIP funding is available to sponsors, which can include airports, public agencies not owning or leasing a public-use airport, metropolitan and state planning agencies.

<sup>25</sup> See United States Department of Transportation, Order 5100.38D, Change 1, February 26, 2019 (explaining a recipient of an AIP grant is normally called a sponsor).

<sup>26</sup> S. 332.007(6)(c), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Florida Department of Transportation, *supra* note 22.

<sup>29</sup> See s. 332.007(9), F.S. (providing for project criteria qualifying for 100 percent DOT funding).

<sup>30</sup> The Florida Department of Transportation – Aviation Office, *Florida Aviation Project Handbook 2021-2022*, pg. 7 (2021), [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/florida-aviation-project-handbook-\(2020-2021\)v7b5cc93c31f25452db01244377cc65215.pdf?sfvrsn=2ee80049\\_12](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/florida-aviation-project-handbook-(2020-2021)v7b5cc93c31f25452db01244377cc65215.pdf?sfvrsn=2ee80049_12) (last visited January 28, 2022).

<sup>31</sup> This classification was assigned as the airport had scheduled passenger service and 9,110 enplanements.

<sup>32</sup> See FAA, *Calendar Year 2019 Final Revenue Enplanements at All Airports*, September 25, 2020.

the airport as a commercial service primary, nonhub airport.<sup>33</sup> Annual passenger boardings decreased in 2019 to slightly under 10,000, reclassifying Vero Beach Regional as a nonprimary commercial service, nonhub airport. In 2020, annual passenger boardings decreased drastically resulting in a reclassification by the FAA to a general aviation airport.<sup>34</sup>

In December of 2015, Elite Airways began direct, non-stop service from Vero Beach to Newark and other destinations. City officials did not expect the commercial service to grow at the rate it did, surpassing the 10,000 annual enplanement cap set by the FAA for non-primary, nonhub airports.<sup>35</sup> As a result of the reclassification, Vero Beach Regional stood to lose funding from DOT. Instead of receiving up to 80 percent for eligible projects when classified as a general aviation airport, it would only be eligible for up to 50 percent as a commercial service airport.<sup>36</sup>

### **Effect of the Bill**

The bill amends s. 332.007 to permit DOT funding for up to 80 percent of eligible project costs for airports classified as commercial service or general aviation with fewer than 100,000 annual passenger boardings. DOT funding will continue to come from the Aviation Grant fund. Annual passenger boardings will be determined by the FAA.

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

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

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

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

#### **1. Revenues:**

None.

#### **2. Expenditures:**

Indeterminate.<sup>37</sup> See Fiscal Comments.

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<sup>33</sup> This classification was assigned as the airport had scheduled passenger service and more 10,314 enplanements during the year, but less than 0.05 percent of the annual U.S. commercial enplanements.; see FAA, *Calendar Year 2018 Final Revenue Enplanements at All Airports*, December 20, 2019.

<sup>34</sup> See FAA, *Calendar Year 2020 Enplanements at U.S. Airports, by State*, November 8, 2021 (showing a 69.64% decrease in enplanements from 2019 to 2020).

<sup>35</sup> Nicole Rodriguez, *Vero City Council 'Blindsided' by Airport Funding Problem*, VeroNews.com (January 23, 2020), <http://veronews.com/2020/01/23/vero-city-council-blindsided-by-airport-funding-problem/> (last visited January 27, 2022).

<sup>36</sup> See FAA, *Passenger Boarding (Enplanement) and All-Cargo Data for U.S. Airports – Previous Years Airports*, [https://www.faa.gov/airports/planning\\_capacity/passenger\\_allcargo\\_stats/passenger/previous\\_years/](https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/previous_years/) (last visited January 31, 2022) (providing data that Fort Lauderdale Executive airport also appears to be trending upward in annual passenger boardings. In 2018, annual boardings increased 141 percent from the previous year. In 2019, annual passenger boardings increased 523 percent to reach 7,386).

<sup>37</sup> See Florida Department of Transportation, *Agency Analysis of 2021 House Bill 631*, p. 5-6 (November 05, 2021).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill expands the number of airports qualifying for a larger percentage of DOT funding for eligible projects. This change could impact the opportunity of these airports to engage in eligible types of projects as the local match requirement is decreased. The cost is shifted to the state, and while the match required is indeterminate, all costs are still limited to available aviation project funding within DOT's adopted Work Program.