

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 780

INTRODUCER: Senator Hutson

SUBJECT: Airports

DATE: February 18, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Vickers</u>	<u>TR</u>	<b>Favorable</b>
2.	<u>McAuliffe</u>	<u>Hrdlicka</u>	<u>ATD</u>	<b>Recommend: Favorable</b>
3.	<u>McAuliffe</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

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**I. Summary:**

SB 780 expands the publicly owned, publicly operated airports eligible for higher funding levels for master planning and eligible aviation development projects by the Florida Department of Transportation (FDOT). Currently, the higher funding is dependent on the availability of federal funds:

- If federal funds are *not* available, the FDOT may fund up to 80 percent of such projects and a 20 percent local match is required.
- If federal funds *are* available, the FDOT may fund up to 80 percent of *the non-federal* share of such projects, or 80 percent of the local match requirement.

This funding is currently limited to airports that have no scheduled commercial service. The bill revises this restriction so that the 80 percent funding levels are limited to:

- General aviation airports; or
- Commercial service airports that have fewer than 100,000 passenger boardings per year as determined by the Federal Aviation Administration.

The bill results in potential funding at the 80 percent funding levels for Vero Beach Regional Airport.

The bill presents no fiscal impact to the FDOT, as the available funding for the identified projects is not revised. The bill may increase by one the number of airports potentially competing for such funding. The bill may increase opportunities for the identified airport to advance aviation projects.

The bill takes effect July 1, 2022.

## II. Present Situation:

### Airport Oversight

The Federal Aviation Administration (FAA) is responsible for planning and developing a safe and efficient national airport system. This includes all programs related to airport safety and inspections and standards for airport design, construction, and operation. Federal law requires each commercial service airport to operate under a federal certificate and comply with federal aviation requirements. The FAA is responsible for national airport planning and environmental and social requirements and establishes policies related to airport rates and charges, compliance with grant assurances, and airport privatization.<sup>1</sup>

At the state level, the FDOT is responsible for planning airport systems and promoting the further development and improvement of airport facilities.<sup>2</sup> The owner or lessee of a proposed public airport<sup>3</sup> must receive the FDOT's approval before site acquisition or construction or establishment of a public airport facility.<sup>4</sup> The FDOT is also responsible for licensing public airport facilities before the operation of aircraft to or from the facility and must inspect such facilities prior to licensing or license renewal.<sup>5</sup> Florida law authorizes local governments to establish and operate airports<sup>6</sup> and governs airport zoning and land use issues.<sup>7</sup>

### FAA Airport Categories

Under federal regulations:

- A general aviation airport is a public-use airport that, as determined by the FAA, does not have scheduled commercial service or has scheduled service of less than 2,500 passenger boardings<sup>8</sup> each year.<sup>9</sup>
- A commercial service airport is a public airport that the FAA determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.<sup>10</sup>
  - A large hub airport is a commercial service airport that has at least 1 percent of the passenger boardings in United States.<sup>11</sup>

<sup>1</sup> See Federal Aviation Administration, *Airports*, [https://www.faa.gov/about/office\\_org/headquarters\\_offices/arp/](https://www.faa.gov/about/office_org/headquarters_offices/arp/) (last visited December 17, 2021).

<sup>2</sup> Section 332.001, F.S.

<sup>3</sup> The term "airport" is defined in s. 330.27(6), F.S. For purposes of FDOT approval and licensure, the term "public airport" means an airport, publicly or privately owned, which is open for use by the public.

<sup>4</sup> Section 330.30(1), F.S.

<sup>5</sup> Section 330.30(2), F.S.

<sup>6</sup> See ch. 332, F.S.

<sup>7</sup> See ch. 333, F.S.

<sup>8</sup> "Passenger boardings" means, unless the context indicates otherwise, revenue passenger boardings in the United State *in the prior calendar year* on an aircraft in service in air commerce and includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous states, Alaska, or Hawaii for a nontraffic purpose.

49 U.S.C. 47102(15).

<sup>9</sup> 49 U.S.C. 47102(8).

<sup>10</sup> 49 U.S.C. 47102(7).

<sup>11</sup> 49 U.S.C. 47102(11). Based on the latest FAA data available (calendar year 2020), Florida's large hub airports are Orlando International, Miami International, Fort Lauderdale/Hollywood International, and Tampa International.

- A medium hub airport is a commercial service airport that has at least 0.25 percent but less than 1 percent of the passenger boardings in the United States.<sup>12</sup>
- A small hub airport is a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings in the United States.<sup>13</sup>
- A non-hub airport is a commercial service airport that has less than 0.05 percent of the passenger boardings in the United States but has more than 10,000 passenger boardings.<sup>14</sup>
- Primary airports are commercial service airports that have more than 10,000 passenger boardings each year.<sup>15</sup>
- Nonprimary airports are commercial service airports that have at least 2,500 and no more than 10,000 passenger boardings each year.<sup>16</sup>

### **Federal Airport Funding**

Airports receive federal grants administered by the FAA. The main grant program for federal funds is the Airport Improvement Program (AIP). The AIP provides grants to public agencies (and, in some cases, to private owners and entities) for the planning and development of public-use airports.<sup>17</sup>

Eligible AIP projects include airport improvements related to enhancing airport safety, capacity, security, and environmental concerns. In general, airports may receive AIP funds for most airfield capital improvements or rehabilitation projects and, in some specific situations, for terminals, hangars, and nonaviation development. Certain professional services that are necessary for eligible projects may also be eligible. The FAA must be able to determine that the projects are justified based on civil aeronautical demand. The projects must also meet federal environmental and procurement requirements.<sup>18</sup>

### **State Airport Funding**

Sections 332.003 through 332.007, F.S., create the Florida Airport Development and Assistance Act. The act sets forth a number of duties of the FDOT, including, but not limited to:

- Providing coordination and assistance for the development of a viable aviation system.
- Assisting airport sponsors in airport master planning.

<sup>12</sup> 49 U.S.C. 47102(13). Florida's medium hub airports are Southwest Florida International (Ft. Myers), Palm Beach International, and Jacksonville International.

<sup>13</sup> 49 U.S.C. 47102(25). Florida's small hub airports are Orlando Sanford International, Sarasota/Bradenton International, Punta Gorda, Pensacola International, Destin-Ft. Walton Beach, Northwest Florida Beaches International (Panama City), and Key West International.

<sup>14</sup> 49 U.S.C. 47102(14). Florida's non-hub airports are Tallahassee International, Daytona Beach International, Gainesville Regional, and Melbourne Orlando International.

<sup>15</sup> *Id.* 49 U.S.C. 47102(14).

<sup>16</sup> See Federal Aviation Administration, *Airports, Planning and Capacity, Airport Categories*, [https://www.faa.gov/airports/planning\\_capacity/categories/](https://www.faa.gov/airports/planning_capacity/categories/) (last visited on December 17, 2021).

<sup>17</sup> See Federal Aviation Administration, *Airports, Airport Improvement Program (AIP), Overview: What is AIP?*, <https://www.faa.gov/airports/aip/overview/> (last visited December 17, 2021).

<sup>18</sup> See FDOT, Updated 2021 Agency Legislative Bill Analysis of House Bill 1143, p. 4 (March 9, 2021) (on file in the Senate Transportation Committee).

- Providing financial and technical assistance to public agencies operating public-use airports<sup>19</sup> by making resources available on a cost-reimbursement basis to such agencies for special needs of limited duration.
- Administering the FDOT's participation in the program of aviation and airport grants.
- Encouraging the maximum allocation of federal funds to local airport projects in this state.<sup>20</sup>

Section 332.007, F.S., relates to the administration and financing of aviation and airport programs and projects. The FDOT must prepare and continuously update an aviation and airport work program based on a collection of the local sponsors'<sup>21</sup> proposed projects to be included in the FDOT's work program.<sup>22</sup> The FDOT's airport work program must separately identify development projects and discretionary capacity improvement projects.<sup>23</sup> The FDOT's airport work program must be consistent with the statewide aviation system plan and, to the maximum extent feasible, with approved local government comprehensive plans. Projects involving FDOT-administered funds to be undertaken and implemented by the airport sponsor must be included in the aviation and airport work program.<sup>24</sup> Assistance may only be provided for projects that are included in the FDOT's adopted work program.<sup>25</sup>

Only projects or programs provided for in the act that will contribute to the implementation of the state aviation system plan, that are consistent with and will contribute to the implementation of any airport master plan or layout plan, and that are consistent, to the maximum extent feasible, with the approved local government comprehensive plans are eligible for the expenditure of state funds in accordance with fund participation rates and priorities.<sup>26</sup>

#### ***Authorized Funding Participation Levels***

Current law authorizes the FDOT to participate in the capital cost of eligible public airport and aviation development projects at specified rates, unless otherwise provided in the General Appropriations Act or the associated implementing bill. Subject to availability of appropriated funds, the FDOT may generally fund up to 50 percent of the portion of eligible airport project costs which are not funded by the federal government.<sup>27</sup> However, subject to appropriation, the FDOT may fund the capital cost of eligible public airport and aviation development projects at a higher rate for certain types of projects.<sup>28</sup>

When federal funds are not available, the FDOT may fund up to 80 percent of master planning<sup>29</sup> and eligible aviation development projects at publicly owned, publicly operated airports,

<sup>19</sup> Section 332.004(14), F.S., defines the term "public-use airport" as any publicly owned airport which is used or to be used for public purposes.

<sup>20</sup> Section 332.006, F.S.

<sup>21</sup> Section 332.004(15), F.S., defines the term "sponsor" as any eligible agency which, either individually or jointly with one or more eligible agencies, submits to the FDOT an application for financial assistance for an airport development project.

<sup>22</sup> The FDOT's work program is developed pursuant to s. 339.135, F.S.

<sup>23</sup> Section 332.007(2)(a), F.S.

<sup>24</sup> Section 332.007(2)(b), F.S.

<sup>25</sup> Section 332.007(3), F.S.

<sup>26</sup> Section 332.007(5), F.S.

<sup>27</sup> Section 332.007(6)(a), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> "Airport master planning" means the development, for planning purposes, of information and guidance to determine the extent, type, and nature of development needed at a specific airport. Section 332.004(3), F.S.

requiring a 20 percent local match. If federal funds are available, the FDOT may fund up to 80 percent of the nonfederal share of such projects, or 80 percent of the local match requirement. Such funding is currently limited to airports that have no scheduled commercial service.<sup>30</sup>

### III. Effect of Proposed Changes:

The bill amends s. 332.007(6)(c), F.S., revising the airports potentially eligible for FDOT participation in funding of master planning and eligible aviation development projects. Under the bill, the FDOT can fund projects at:

- General aviation airports;<sup>31</sup> or
- Commercial service airports that have less than 100,000 passenger boardings per year as determined by the FAA.

The bill removes the current restriction of such funding to projects at airports having no scheduled commercial service.

This revision results in potential funding eligibility at the 80 percent funding levels for the specified projects at Vero Beach Regional Airport. While that airport was previously categorized by the FAA as a commercial service airport due to enplanements at the end of calendar year 2019 (7,698), the FAA now categorizes the airport as a general aviation airport due to reduced enplanements at the end of calendar year 2020 (2,337). Based on the FAA data, no additional airport appears to currently qualify for the potential funding eligibility under the bill.<sup>32</sup>

The bill takes effect July 1, 2022.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

<sup>30</sup> Section 332.007(6)(c), F.S.

<sup>31</sup> The FDOT previously advised with respect to 2021 SB 1466, containing the same revision relevant to general aviation airports, that the bill presents no change with respect to general aviation airports, as current law already includes these airports. See FDOT email to Senate Transportation Committee staff, March 15, 2021 (on file in the Senate Transportation Committee).

<sup>32</sup> Federal Aviation Administration, *Passenger Boarding (Enplanement) and All-Cargo Data for U.S. Airports – Airports*, [https://www.faa.gov/airports/planning\\_capacity/passenger\\_allcargo\\_stats/passenger/](https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/) (last visited December 17, 2021.)

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill presents no fiscal impact to the FDOT, as any funding for the identified projects is not increased, but the number of airports competing for such funding is potentially increased by one. Over time, the pool of eligible applicants for any available funding for the identified projects may vary with the number of passenger boardings in the United States and the resulting FAA classification of Florida airports.

The bill may increase opportunities to advance the specified aviation projects at the identified publicly owned, publicly operated airport, including, but not limited to, funding assistance to meet the 20 percent local match requirement when federal funds are available.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 332.007 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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