



Transportation & Ports Subcommittee

MEETING PACKET

**Tuesday, January 26, 2016
1:00 PM – 2:00 PM
Sumner Hall (404 HOB)**

**Steve Crisafulli
Speaker**

**Patrick Rooney, Jr.
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Transportation & Ports Subcommittee

Start Date and Time: Tuesday, January 26, 2016 01:00 pm
End Date and Time: Tuesday, January 26, 2016 02:00 pm
Location: Sumner Hall (404 HOB)
Duration: 1.00 hrs

Consideration of the following bill(s):

HB 845 Bay County Bridge Authority, Bay County by Trumbull
HB 1379 Airport Zoning Law of 1945 by Miller

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Monday, January 25, 2016.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, January 25, 2016.

NOTICE FINALIZED on 01/22/2016 3:42PM by Manning.Karen

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 845 Bay County Bridge Authority, Bay County
SPONSOR(S): Trumbull
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	8 Y, 0 N	Walker	Miller
2) Transportation & Ports Subcommittee		Willson <i>mw</i>	Vickers <i>rv</i>
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

“Special Districts” are a type of limited local government created to perform specific services within a described geographic area. Sometimes called special taxing districts, most are created either by special act (independent special districts) or county or municipal ordinance (dependent special districts). The Special District Accountability Program in the Department of Economic Opportunity (DEO) is responsible for creating and maintaining a current list of all special districts in Florida, as provided in ch. 189, F.S., the Uniform Special District Accountability Act.

When a special district fails to meet certain statutory responsibilities, no longer functions, or informs DEO it is no longer active, DEO is required to follow the statutory process before declaring the district inactive. This includes documenting one or more statutory criteria for inactive status, publishing notice in the area of the district of DEO’s intent to declare the district inactive, and documenting the lack of any objection to declaring the district inactive. DEO is required to deliver written notice of the declaration of inactive status to specific authorities. If the district was created by special act, notice is delivered to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight. If the district was created by local ordinance, notice is delivered to the governing body of the county or municipality that created the district. A special district declared inactive may not collect taxes, assessments, or fees while the declaration is in effect. However, the district still exists until its legal authority is repealed by the creating entity.

The bill dissolves the Bay County Bridge Authority, an independent special district, by repealing ch. 84-391, Laws of Florida. Any assets and liabilities of the district are transferred to the Bay County Board of County Commissioners.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Special Districts Declared Inactive

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,¹ special act,² local ordinance,³ or by rule of the Governor and Cabinet.⁴ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁵ A special district may be "dependent"⁶ or "independent."⁷

The Special District Accountability Program within the Department of Economic Opportunity (DEO) is responsible for maintaining and electronically publishing the official list of all special districts in Florida.⁸ The official list currently reports all active special districts as well as those declared inactive by DEO.

Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO is required to declare that district inactive by following a specified process.⁹ DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of six specific factors:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
 - Provides DEO with written notice that the district has taken no action for 2 or more years.¹⁰
 - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years.¹¹
 - Fails to respond to an inquiry from DEO within 21 days.¹²

¹ Section 189.031(3), F.S.

² Id.

³ Section 189.02(1), F.S.

⁴ Section 190.005(1), F.S. *See, generally*, s. 189.012(6), F.S.

⁵ *2015 – 2016 Local Gov't Formation Manual*, p. 67, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2836> (accessed 9/28/2015).

⁶ Section 189.012(2), F.S. A special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.

⁷ Section 189.012(3), F.S. A special district that is not a dependent district.

⁸ Sections 189.061(1), 189.064(2), F.S. DEO maintains the current official list at

<https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (accessed 9/28/2015).

⁹ Section 189.062(1), F.S. Prior to 2014, the former statute required DEO to document the existence of one of five criteria listed in paragraph (1)(a), publication and service under paragraph (1)(b) of a notice of intent to declare the district inactive, and the lack of any administrative appeal of the declaration within 21 days of that publication. Section 189.4044, F.S. (2013). In 2014, as ch. 189, F.S., was extensively revised and restructured, the word "or" was added at the end of s. 189.062(1)(a)6, F.S., apparently allowing DEO either to document one of the six criteria *or* publish notice of intent to declare inactive and find no appeal is filed. Chapter 2014-22, s. 24, Laws of Florida. During the 2015 regular legislative session, the Florida Senate passed CS/SB 1388, its version of a bill resolving technical issues stemming from the 2014 revisions, which would have amended s. 189.062(1)(a)6, F.S., by removing the word "or." CS/SB 1388 (2015), s. 11, at line 414 (bill did not pass the Legislature). DEO still uses the 3-step process as described in the 2013 statute.

¹⁰ Section 189.062(1)(a)1., F.S.

¹¹ Section 189.062(1)(a)2., F.S.

- Following statutory procedure,¹³ DEO determines the district failed to file specified reports,¹⁴ including required financial reports.¹⁵
- For more than 1 year, no registered office or agent for the district was on file with DEO.¹⁶
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.¹⁷

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.¹⁸ The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to chapter 120, F.S.,¹⁹ within 21 days after the publication date.²⁰ If no objection is filed within the 21 day period, DEO declares the district inactive.²¹

After declaring certain special districts as being inactive, DEO must send written notice of the declaration to the authorities which created the district. If the district was created by special act, DEO sends written notice to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight.²² The statute provides that the declaration of inactive status is sufficient notice under the Florida Constitution²³ to authorize the repeal of special laws creating or amending the charter of the inactive district.²⁴ This statute stands in lieu of the normal requirement for publication of notice of intent to file a local bill at least 30 days before introducing the bill in the Legislature.²⁵

The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district. Any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.²⁶

A district declared inactive may not collect taxes, fees, or assessments.²⁷ This prohibition continues until the declaration of invalidity is withdrawn or revoked by DEO²⁸ or invalidated in an administrative proceeding²⁹ or civil action³⁰ timely brought by the governing body of the special district.³¹ Failure of the

¹² Section 189.062(1)(a)3., F.S.

¹³ Section 189.067, F.S.

¹⁴ Section 189.066, F.S.

¹⁵ Section 189.062(1)(a)4., F.S. *See, ss.* 189.016(9), 218.32, 218.39, F.S.

¹⁶ Section 189.062(1)(a)5., F.S.

¹⁷ Section 189.062(1)(a)6., F.S.

¹⁸ Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district's registered agent or chair of the district's governing body, if any.

¹⁹ The Florida Administrative Procedure Act.

²⁰ Section 189.062(10)(b), F.S. The published notice also must include the name of the district, the law under which it was organized and operating, and a description of the district's territory.

²¹ Section 189.062(1)(c), F.S.

²² Section 189.062(3), F.S.

²³ Art. III, s. 10, Fla. Const.

²⁴ Section 189.062(3), F.S.

²⁵ Section 11.02, F.S.

²⁶ Section 189.062(2), F.S.

²⁷ Section 189.062(5), F.S.

²⁸ Section 189.062(5)(a), F.S.

²⁹ Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

³⁰ Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

³¹ The special district must initiate the legal challenge within 30 days after the date the written notice of the department's declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.

special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.³²

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature³³ or the entity that created the district.³⁴

Bay County Bridge Authority

Bridge authority special districts exist to promote efficiency in transportation across the state by providing planning, construction and management of bridges over state waters. Bridge authorities are authorized to collect toll revenues, utilizing the SunPass electronic collection system, as well as issue tax-exempt revenue bonds to finance new infrastructure. Bridge authorities may also receive loans from the State Transportation Trust Fund and the State Infrastructure Bank.³⁵

The Bay County Bridge Authority (“the Authority”) was created as a dependent special district by special act in 1984 with the Board of County Commissioners of Bay County acting as the Authority.³⁶ The Authority was created to construct and maintain a bridge over North Bay. In 1998, the Florida Department of Transportation (DOT) designed, built, and now maintains the D.J. Bailey Memorial Bridge.³⁷

The registered agent of the Authority notified the Department of Community Affairs (DCA)³⁸ that the Authority had become inactive within the meaning of s. 189.4044(1)(a)1., F.S. (2003), by failing to take any action within a two calendar year period and requested that DCA declare the District inactive. On December 31, 2003 and again on January 7, 2004, DCA published the “Notice of Proposed Declaration of Inactive Status of the Bay County Bridge Authority Independent Special District” in the News Herald.³⁹ Pursuant to statute, the notice required any objections to the District being placed on inactive status to be filed with DCA within 60 days⁴⁰ of the initial publication of the notice; no objections were received. On March 25, 2004, DCA declared the District inactive. DCA notified the Speaker of the House and the President of the Senate pursuant to statute that the district had been declared inactive.⁴¹

EFFECT OF THE BILL

The bill dissolves the Bay County Bridge Authority by repealing ch. 84-391, Laws of Florida. Any assets and liabilities of the district are transferred to the Board of County Commissioners for Bay County.

B. SECTION DIRECTORY:

³² Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

³³ Sections 189.071(3), 189.072(3), F.S.

³⁴ Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

³⁵ Florida Special District Review, <http://www.flspecialcharsdistrictreview.state.fl.us/Default.aspx?groupId=9>.

³⁶ Ch. 84-391, Laws of Florida.

³⁷ DOT “Florida Bridge Information” for 2015 4th Quarter, p. 65 (10/1/2015), at <http://www.dot.state.fl.us/statemaintenanceoffice/bridgeinfo.shtml>. The actions of DOT rendered moot any further need for the Authority.

³⁸ The Department of Community Affairs was abolished and the Division of Community Planning, responsible for supervision of special districts, was transferred to the newly created Department of Economic Opportunity, effective July 1, 2011. Ch. 2011-142, ss. 3, 528, Laws of Florida.

³⁹ Letter from the Department of Community Affairs to President of the Senate James King and Speaker of the House Johnnie Byrd, “Re: Inactive Status of the Bay County Bridge Authority,” (March 12, 2004).

⁴⁰ The current iteration of procedures for dissolution under s. 189.062 F.S. (2015), requires only a 21 day notice and response period. The notice and response period was 60 days under s. 189.4044 F.S. (2003).

⁴¹ The statute currently requires notification of the standing committee chairs; however, at the time the district was declared inactive, the statute only required the Speaker of the House and President of the Senate be notified. 189.4044(1) F.S., (2003).

Section 1: Repeals ch. 84-391, Laws of Florida.

Section 2: Abolishes the Bay County Bridge Authority and transfers all assets and liabilities of the district to the Board of County Commissioners of Bay County.

Section 3: Provides the bill is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? March 12, 2004

WHERE? Tallahassee, FL

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

When notice of intent to file a local bill is published in the area to be affected pursuant to statute,⁴² proof of such publication typically is in the form of an affidavit.⁴³ However, in this instance the notice of declaring inactive status in and of itself is sufficient to satisfy the constitutional requirement.⁴⁴ To satisfy the requirement of general law that evidence of the necessary publication "be established" in the Legislature before the bill is passed,⁴⁵ a Substitute Notice of Publication reciting the requirement of s. 189.062(3), F.S., was submitted with the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁴² Section 11.02, F.S.

⁴³ Section 11.03, F.S.

⁴⁴ Section 189.062(3), F.S.

⁴⁵ Section 11.021, F.S.

1 A bill to be entitled
2 An act relating to the Bay County Bridge Authority,
3 Bay County; repealing chapter 84-391, Laws of Florida;
4 abolishing the authority; transferring assets and
5 liabilities of the authority to the Board of County
6 Commissioners of Bay County; providing an effective
7 date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Chapter 84-391, Laws of Florida, is repealed.

12 Section 2. The Bay County Bridge Authority, Bay County, is
13 abolished. All assets and liabilities of the authority are
14 transferred to the Board of County Commissioners of Bay County.

15 Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1379 Airport Zoning Law of 1945
SPONSOR(S): Miller
TIED BILLS: IDEN./SIM. BILLS: SB 1508

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Ports Subcommittee		Willson <i>WW</i>	Vickers <i>RV</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

This bill updates and revises chapter 333, F.S., the "Airport Zoning Law of 1945", which governs land use and airspace management at or around airports. Originally enacted in 1945, it contains many outdated provisions and internal inconsistencies, as well as provisions that are inconsistent with current federal regulations. Likewise, stakeholders found that the local government airport protection zoning process as it currently exists is often cumbersome and confusing.

The bill implements the recommendations of a stakeholder working group, in effect modernizing the regulation of airspace and land use for affected areas and transitioning from an antiquated variance process to a more streamlined permitting process for certain structures.

The bill does not appear to have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill revises Chapter 333, F.S., governing land use and airspace management at or around airports. For ease of understanding, the analysis is arranged by section.

Current Situation

In 2012, DOT created a stakeholder working group to address problems with the state's airport zoning law and to update it to reflect current federal requirements and industry standards. The group consisted of representatives from airports, local planning/zoning departments, the Florida Defense Alliance, the Florida League of Cities, the Florida Airports Council, the real estate development community, and DOT. The group met three times between June and September 2012.

The working group determined that the law, which originally passed in 1945,¹ contains provisions that are outdated and inconsistent with federal regulations, has internal inconsistencies, and requires a local government airport protection zoning process that can be cumbersome and confusing.

Definitions (s. 333.01, F.S.)

Current Situation

Current law defines various terms as they relate to airport zoning.

Proposed Changes

The bill implements numerous changes to definitions related to airport zoning to reflect improved consistency with federal regulations and guidance. Specifically, the bill adds the following definitions to s. 333.01, F.S.:

- Aeronautical study - a Federal Aviation Administration (FAA) review conducted pursuant to 14 C.F.R. Part 77, concerning the effect of proposed construction or alteration on the use of air navigation facilities or navigable airspace by aircraft.
- Airport master plan - a comprehensive plan of an airport that describes the immediate and long-term development plans to meet future aviation demand.
- Airport protection zoning regulations- airport zoning regulations governing airport hazards.
- Department - Department of Transportation as created under s. 20.23, F.S.
- Educational facility - any structure, land, or use thereof that includes a public or private kindergarten through twelfth grade school, charter school, magnet school, college campus, or university campus. For the purposes of Ch. 333, F.S. the term "educational facility" does not include space utilized for educational purposes within a multi-tenant building.
- Landfill - has the same meaning as in s. 403.703, F.S.²
- Public-use airport - an airport,³ publicly or privately owned, licensed by the state, which is open for use by the public.

¹ Ch. 23079, Laws of Fla.

² section 403.703(17), F.S., defines "landfill" as "any solid waste land disposal area for which a permit, other than a general permit, is required by s. 403.707 and which receives solid waste for disposal in or upon land. The term does not include a land-spreading site, an injection well, a surface impoundment, or a facility for the disposal of construction and demolition debris."

³ The bill defines "airport" as "any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purpose."

- Substantial modification - any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50 percent of the market value of the structure.

The bill also amends the following definitions:

- Airport hazard
- Airport hazard area
- Airport land use compatibility zoning
- Airport layout plan
- Obstruction
- Political subdivision
- Runway protection zone
- Structure

The bill also deletes the definition of “aeronautics” since the term is not being used. It also deletes the definition of “tree” and replaces the term with “obstruction” throughout Ch. 333, F.S., as applicable.

Permit Required for Structures Exceeding Federal Obstruction Standards (s. 333.025, F.S.)

Current Situation

Current law provides that in order to prevent structures⁴ dangerous to air navigation from being erected, each person⁵ must secure permit from DOT to erect, alter, or modify a structure exceeding the federal obstruction standards.⁶ However, permits are only required within an airport hazard area⁷ where federal standards are exceeded and if the proposed construction is within a 10-nautical-mile radius of the geographical center of the airport.

Current law provides that affected airports are considered having those facilities which are shown on the airport master plan, or an airport layout plan,⁸ or in comparable military documents, and those facilities will be protected. Planned or proposed public-use airports which are the subject of a notice or proposal submitted to the FAA or to DOT will also be protected.

Current law provides that permit requirements do not apply if the project received construction permits from the Federal Communications Commission (FCC) prior to May 20, 1975,⁹ nor do permit requirements apply to previously approved structures now existing, or any necessary replacement or repairs to existing structures, provided that there is no change to the height and location of the structure.

Current law provides that when political subdivisions¹⁰ have adopted adequate airspace protections, which are on file with DOT, a DOT permit for the structure is not required.

⁴ The bill defines “structure” as “any object, constructed, erected, altered, or installed, including, but without limitation thereof, buildings, towers, smokestacks, utility poles, power generation equipment and overhead transmission lines.”

⁵ The bill defines “person” as “any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.”

⁶ The federal obstruction standards are contained in 14 C.F.R. §§ 77.15, 77.17, 77.19, 77.21, and 77.23.

⁷ The bill defines “airport hazard area” as “any area of land or water upon which an airport hazard might be established.”

⁸ The bill defines “airport layout plan” as “a scaled drawing, or set of drawings, in either paper or electronic form, of existing and planned airport facilities that provide a graphic representation of the existing and long-term development plan for the airport and demonstrates the preservation and continuity of safety, utility, and efficiency of the airport.”

⁹ This is provided that these structures now exist.

¹⁰ The bill defines “political subdivision” as “the local government any county, city, town, village, or other subdivision or agency thereof, or any district or special district, port commission, port authority, or other such agency authorized to establish or operate airports in the state.”

Upon receipt of a permit application, DOT has 30 days to issue or deny a permit to erect, alter, or modify any structure that would exceed federal obstruction standards.

Current law provides that in determining whether to issue or deny a permit, DOT considers the following:

- The nature of the terrain and height of existing structures.
- Public and private interests and investments.
- The character of flying operations and planned developments of airports.
- Federal airways as designated by the FAA.
- Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.
- Technological advances.
- The safety of persons on the ground and in the air.
- Land use density.
- The safe and efficient use of navigable airspace.
- The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.

Current law provides that when issuing a permit, DOT shall require the obstruction¹¹ marking and lighting of the permitted obstruction.

Current law prohibits DOT from approving a permit to erect a structure unless the applicant submits documentation showing compliance with both federal notification requirements and a valid aeronautical evaluation. DOT shall not approve a permit solely on the basis that such proposed structure will not exceed federal obstruction standards or any other federal aviation regulation.

Proposed Changes

The bill replaces the term “geographic center” with “airport reference point”, which is defined as the approximate geometric center of all usable runways at a public airport. The bill also removes a redundant reference to FAA rules governing federal obstruction standards.

The bill provides that existing, planned, and proposed facilities at public-use airports contained in an airport master plan, on an airport layout plan, or in comparable military documents will be protected from airport hazards. The bill also removes the provision that certain planned or proposed public-use airports are also protected.

The bill replaces the term “project” with “existing structures” in s. 333.025(3), F S. and removes the conditional reference to the existence of certain structures that were permitted by the FCC prior to May 20, 1975.

The bill provides that a DOT permit is not required for a structure in a political subdivision that has adequate airport protection zoning regulations on file with DOT, and the political subdivision has established a permitting process. The bill creates a 15-day period, concurrent with the permitting process, for DOT to evaluate the permit for technical consistency. Cranes, construction equipment, and other temporary structures, in use or in place for a period not exceeding 18 consecutive months are exempt from DOT review, unless review is requested by DOT.

¹¹ The bill defines “obstruction” as any object of natural growth or terrain or permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus, or alteration of any permanent or temporary existing structure by a change in its height, including appurtenances, or lateral dimensions, including equipment or material used therein, existing or proposed, which exceeds the standards contained in 14 C.F.R. §§ 77.15, 77.17, 11.19, 77.21, and 77.23.

The bill provides that DOT has 30 days after receiving an application to issue or deny a permit for the construction or alteration of an obstruction. The bill requires DOT to review permit applications in conformity with s. 120.60, F.S.¹²

The bill adds the following criteria for DOT to consider when granting or denying a permit:

- The effect of the construction or alteration of an obstruction on the state licensing standards for a public-use airport.¹³

The bill modifies the following criteria for DOT to consider in granting or denying a permit:

- The character of existing and planned flight operations and developments at public-use airports.
- Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA.
- The cumulative effects on navigable airspace of all existing obstructions and all other known proposed obstructions in the area.

The bill deletes the following criteria for DOT to consider in granting or denying a permit:

- Technological advances
- Land use density.

The bill provides that when issuing a permit, DOT must require the owner of the obstruction to install, operate, and maintain, at his or her own expense, marking and lighting in conformance with FAA standards.

The bill provides that DOT shall not approve the construction or alteration of an obstruction unless documentation is submitted that it is in compliance with certain standards. The bill changes the term "aeronautical evaluation" to "aeronautical study," which the bill defines.

The bill creates s. 333.025(9), F.S., providing that the denial of a permit is subject to the administrative review under the Florida Administrative Procedures Act.¹⁴

Power to Adopt Airport Zoning Regulations (s. 333.03, F.S.)

Current Situation

Current law provides that every political subdivision with an airport hazard¹⁵ area has until October 1, 1977, to adopt, administer, and enforce airport zoning regulations for the airport hazard area.

Current law provides where an airport is owned or controlled by a political subdivision and any airport hazard area related to the airport is located in whole or in part outside of the political subdivision, the political subdivision owning or controlling the airport and the political subdivision where the airport hazard area is located, shall either:

- By interlocal agreement, adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area; or
- create a joint airport zoning board, with the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area.

Current law provides that airport zoning regulations shall, as a minimum, require:

- A variance for the erection, alteration, or modification of any structure that would cause the structure to exceed the federal obstruction standards;

¹² section 120.60, F.S., relates to licensing.

¹³ The state licensing standards for a public-use airport are contained in Ch. 330, F.S., and Rule 14-60, F.A.C.

¹⁴ Ch. 120, F.S.

¹⁵ The bill defines "airport hazard" as "any obstruction to air navigation that affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities."

- obstruction marking and lighting for structures;
- documentation showing compliance with the federal requirement for notification of proposed construction and a valid aeronautical evaluation submitted by each person applying for a variance;
- consideration of the criteria in s. 333.025(6), F.S., when determining whether to issue or deny a variance; and
- that no variance shall be approved solely on the basis that such proposed structure will not exceed federal obstruction standards or any other federal aviation regulation.

Current law requires DOT to issue copies of the federal obstruction standards to each political subdivision with an airport hazard area. Additionally, DOT must, in cooperation with political subdivisions, issue appropriate airport zoning maps depicting within each county the maximum allowable height of any structure or tree.

Current law provides that interim airport land use compatibility zoning¹⁶ regulations shall be adopted. When political subdivisions have land development regulations addressing land use consistent with Ch. 333, F.S, the political subdivision is not required to adopt airport land use compatibility regulations. Interim land use compatibility regulations are required to consider the following:

- Whether sanitary landfills are located within the following areas:
 - Within 10,000 feet from the nearest point of any runway used or planned to be used by turbojet or turboprop aircraft.
 - Within 5,000 feet from the nearest point of any runway used only by piston-type aircraft.
 - Outside the perimeters defined above, but still within the lateral limits of the civil airport imaginary surfaces. Current law advises a case-by-case review of such landfills.
- Whether any landfill is located and constructed so that it attracts or sustains hazardous bird movements. The political subdivision shall request a report from the airport on such bird feeding or roosting areas that are known to the airport. In preparing its report, the airport, considers whether the landfill will incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft. The airport has 30 days to respond to the request.
- Where an airport authority or other governing body has conducted a noise study¹⁷ neither residential construction nor any educational facility¹⁸ 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.
- Where an airport authority or other governing body operating an airport has not conducted a noise study, neither residential construction nor any educational facility except for of aviation school facilities, shall 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.

Current law requires airport zoning regulations restricting new incompatible uses, activities, or construction within runway clear zones, including uses, activities, or construction in runway clear zones which are incompatible with normal airport operations or endanger public health, safety, and welfare by resulting in congregations of people, emissions of light or smoke, or attraction of birds. These regulations shall prohibit the construction of an educational facility at either end of a runway of an airport within an area which extends five miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. Exceptions approving construction of an educational facility within the delineated area shall only be granted when 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.

¹⁶ The bill defines "airport land use compatibility zoning" as "airport zoning regulations governing the use of land on, adjacent to, or in the immediate vicinity of airports."

¹⁷ A noise study is conducted in accordance with 14 C.F.R. § 150.

¹⁸ section 1013.01(6), F.S., defines "educational facilities" as "the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards."

Current law requires DOT to provide technical assistance to any political subdivision requesting assistance in preparing an airport zoning code. A copy of all local airport zoning codes, rules, and regulations, and amendments and proposed and granted variances, must be filed with DOT.

Current law provides that nothing shall be construed to require the removal, change, or to interfere with the continued use or adjacent expansion of any educational structure or site in existence on July 1, 1993, or be construed to prohibit the construction of any new structure for which a site has been determined as provided in former s. 235.19, F.S., as of July 1, 1993.

Proposed Changes

The bill amends the title of s. 333.03, F.S., to “Airport protection zoning regulations.”

The bill amends s. 333.03(1)(a), F.S., removing the October 1, 1977 deadline, clarifying language, and specifying airport protection zoning regulations.

The bill amends s. 333.03(1)(b), F.S., removing antiquated legal phrasing, providing clarity and specificity, and deleting unnecessary statutory references.

The bill amends s. 333.03(1)(c), F.S., reflecting the conversion from a variance process to a permitting process. The bill also removes references to FAA rules.

The bill amends s. 333.03(1)(d), F.S., removing the requirement that DOT issue copies of the federal obstruction standards. The paragraph now provides that DOT is available to assist political subdivisions with regard to federal obstruction standards.

The bill amends s. 333.03(2), F.S., modifying the text to require political subdivisions adopt, administer, and enforce airport land use compatibility zoning regulations.

The bill amends s. 333.03(2)(a), F.S., prohibiting any new and restricting any existing landfills in the areas above. The text is also modified to reflect current aviation terminology regarding the types of aircraft and to update a C.F.R. reference.

The bill amends s. 333.03(2)(b), F.S., eliminating statutory redundancy.

The bill amends s. 333.03(2)(c), F.S., allowing for alternative noise studies approved by the FAA in lieu of a noise study provided for in 14 C.F.R. Part 150.

The bill amend s. 333.03(2)(d), F.S., removing the term “publicly-owned” and a reference to a definition for educational facility in Ch. 1013, F.S.

The bill redesignates the previous s. 333.03(3), F.S., as s. 333.03(2)(e), F.S., and amends this provision to reflect revised statutory intent, removing redundancy and antiquated aviation terminology and reflecting the purpose of runway protection zones¹⁹ as defined and described in FAA AC 15-5300-13A.²⁰

The bill repeals s. 333.03(4), F.S., preventing redundancy due to changes to the permitting process.

¹⁹ The bill defines “runway protection zone” as an area at ground level beyond the runway end to enhance the safety and protection of people and property on the ground.

²⁰ FAA AC 15-5300-13A is available at:

http://www.faa.gov/airports/resources/advisory_circulars/index.cfm/go/document.current/documentNumber/150_5300-13 (last visited January 7, 2016).

The bill redesignates the previous s. 333.03(5), F.S., as s. 333.03(3), F.S., providing clarity and specificity and to reflect a conversion to a permitting process by requiring all updates and amendments to local airport zoning codes, rules, and regulations to be filed with DOT within 30 days after adoption.

The bill redesignates the previous s. 333.03(6), F.S., as s. 333.03(4), F.S., removing the provision prohibiting the construction of a new site as determined by the former s. 235.19, F.S., as of July 1, 1993.

The bill creates a new s. 333.03(5), F.S., providing that nothing precludes another governing body operating a public-use airport from establishing airport zoning regulations stricter than provided in state law in order to protect the health, safety and welfare of the public in the air and on the ground.

Comprehensive Zoning Regulations; Most Stringent to Prevail Where Conflicts Occur (s. 333.04, F.S.)

Current Situation

Incorporation

Current law provides that if a political subdivision has a comprehensive zoning ordinance regulating, among other things, the height of buildings, structures, and natural objects, and uses of property, any airport zoning regulations applicable to the same area or portion of the area may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection with the comprehensive zoning regulations.

Conflict

Current law provides that if there is a conflict between any airport zoning regulations and any other regulations applicable to the same area, the more stringent limitation or requirement governs and prevails.

Proposed Changes

The bill amends s. 333.04(1), F.S., changing zoning ordinance to “zoning plan or policy.” The bill also adds “protection” to the phrase “airport zoning regulations.”

The bill amends s. 333.04(2), F.S., providing that it refers to “airport protection zoning” and to change the word “trees” to “vegetation.”

Procedure for Adoption of Zoning Regulations (s. 333.05, F.S.)

Current Situation

Notice and Hearing

Current law provides that airport zoning regulations shall not be adopted, amended, or changed except by action of the legislative body of the political subdivision, or the joint board after a public hearing where interested parties and citizens may be heard.

Airport Zoning Commission

Current law provides that prior to the initial zoning of any airport area, the political subdivision or joint airport zoning board appoints an airport zoning commission. The airport zoning commission recommends the boundaries of the various zones to be established and the regulations to be adopted. Where a city plan commission or comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

Proposed Changes

The bill amends s. 333.05, F.S., providing internal consistency with definitions and to reflect correct community planning terminology.

Airport Zoning Requirements (s. 333.06, F.S.)

Current Situation

Reasonableness

Current law provides that all airport zoning regulations shall be reasonable and not impose any requirement or restriction which is not reasonably necessary. In determining what regulations it may adopt, the following must be considered:

- The character of the flying operations expected to be conducted at the airport;
- the nature of the terrain within the airport hazard area and runway clear zones;
- the character of the neighborhood;
- the uses to which the property to be zoned is put and adaptable; and
- the impact of any new use, activity, or construction on the airport's operating capability and capacity.

Independent Justification

Current law provides that the purpose of all airport zoning regulations is to provide both airspace protection and land use compatible with airport operations. Each aspect requires independent justification in order to promote the public interest in safety, health, and general welfare. Specifically, construction in a runway clear zone which does not exceed airspace height restrictions is not evidence per se that such use, activity, or construction is compatible with airport operations.

Nonconforming Uses

Current law prohibits airport zoning regulations from requiring the removal, lowering, or other change of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in s. 333.07(1) and (3), F.S.

Adoption of Airport Master Plan and Notice to Affected Local Governments

Current law requires that an each public airport licensed by DOT prepare an airport master plan.

Proposed Changes

The bill amends s. 333.06, F.S. deleting the term "runway clear zone" and replacing it with "runway protection zone."²¹ The bill also modifies the statute for internal consistency with definitions.

Guidelines Regarding Land Use Near Airports (s. 333.065, F.S.)

Current Situation

Current law provides that DOT, after consultation with the Department of Economic Opportunity, local governments, and other interested persons, is required to adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports.

Proposed Changes

The bill repeals s. 333.065, F.S. According to DOT, this is due to the completion of its Airport Compatibility Land Use Guidebook.²²

Permits and Variances (s. 333.07, F.S.)

Current Situation

²¹ According to DOT, this is consistent with FAA AC 150/5300-13A.

²² A copy of DOT's Airport Compatibility Land Use Guidebook is available at: <http://www.dot.state.fl.us/aviation/compland.shtm> (last visited January 6, 2016).

Permits

Current law provides that any airport zoning regulations may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure is substantially changed or substantially altered or repaired. All such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations. A permit may not be granted that would allow the establishment or creation of an airport hazard or would permit a nonconforming structure or tree or nonconforming use to be made or become higher or to become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.

Current law provides that whenever the administrative agency determines that a nonconforming use or nonconforming structure or tree has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, it may not grant a permit that would allow the structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit or not, the agency may by appropriate action, compel the owner of the nonconforming structure or tree, at his or her own expense, to lower, remove, reconstruct, or equip such object as may be necessary to conform to the regulations. If the owner of the nonconforming structure or tree does not comply with the order within 10 days, the agency may report the violation to the political subdivision involved, who, through its appropriate agency, may proceed to have the object lowered, removed, reconstructed, or equipped, and assess its cost and expense thereof upon the object or the land where it is or was located, and, unless such an assessment is paid within 90 days from the service of notice on the owner or the owner's agent, of such object or land, the sum shall be a lien on said land, and shall bear interest at an annual rate of six percent, and shall be collected in the same manner as the political subdivision collects property taxes, or, the political subdivision may enforce the lien in the manner provided for enforcement of liens.²³

Current law provides that except as provided, applications for permits shall be granted, provided the matter applied for meets the provisions Ch. 333, F.S., and the regulations adopted and in force.

Variances

Current law provides that any person desiring use his or her property in violation of airport zoning regulations or any land development regulation adopted pertaining to airport land use compatibility, may apply to the board of adjustment for a variance from the zoning regulations. When filing the application, the applicant forwards a copy to DOT. DOT has 45 days to comment or waive the right to comment to the applicant and the board of adjustment. DOT must include in its comments its explanation for any objections. If DOT fails to comment within 45 days, it waives its right to comment. The board of adjustment may proceed with its consideration of the application only after it receives DOT's comments or DOT waives its right to comment. Noncompliance is grounds to appeal and to apply for judicial relief. Such variances may only be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and where the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of airport zoning regulations and Ch. 333, F.S. However, any variance may be allowed subject to any reasonable conditions that the board of adjustment deems necessary.

Current law allows DOT to appeal any variance granted and apply for judicial relief.

Current law provides that in granting any permit or variance the administrative agency or board of adjustment shall require the owner of the structure or tree to install, operate, and maintain, at his or her own expense, marking and lighting as may be necessary to indicate to aircraft pilots the presence of an obstruction.

Obstruction marking and lighting

²³ The enforcement of statutory liens is provided for in Ch. 85, F.S.

Current law provides that marking and lighting shall conform to the specific standards established in DOT rule.

Current law provides that existing structures not in compliance on October 1, 1988, shall be required to comply the earliest of whenever the existing lighting requires replacement, or within 5 years of October 1, 1988.

Proposed Changes

The bill amends the title of s. 333.07, F.S., to "Local government permitting of airspace obstructions".

Permits

The bill amends ss. 333.07(1)(a) and (b), F.S., reflecting the conversion from a variance to a permitting process, for internal consistency with definitions, and removing antiquated legal phrasing.

The bill deletes s. 333.07(1)(c), F.S., removing statutory redundancy.

Variances

The bill deletes s. 333.07(2), F.S., reflecting the conversion from a variance process to a permitting process.

Considerations when issuing or denying permits

The bill creates s. 333.07(2), F.S. relating to considerations when issuing or denying a permit. In determining whether to issue or deny a permit, the political subdivision or its administrative agency considers the impact of the following, as applicable:

- The safety of persons on the ground and in the air.
- The safe and efficient use of navigable airspace.
- The nature of the terrain and height of existing structures.
- The effect of the construction or alteration on the state licensing standards for a public-use airport contained in Ch. 330, F.S., and rules adopted thereunder..
- The character of existing and planned flight operations and developments at public-use airports.
- Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA.
- Effect of the construction or alteration of the proposed structure on the minimum descent altitude or the decision height at the affected airport.
- The cumulative effect on navigable airspace of all existing structures, and all other known proposed structures in the area.
- Additional requirements adopted by the political subdivision pertinent to evaluation and protection of airspace and airport operations.

Obstruction marking and lighting

The bill amends ss. 333.07(3)(a) and (b), F.S., for internal consistency with definitions and with FAA AC 70/7460-1K.²⁴ The bill removes s. 333.07(3)(b), F.S., requiring such marking and lighting to conform to DOT standards established by rule. The bill also removes s. 333.07(3)(c), F.S., which contains an obsolete date.

Appeals (s. 333.08, F.S.)

Current Situation

Current law provides that any person aggrieved, or taxpayer affected, by any decision of an administrative agency in the administration of airport zoning regulations; or any governing body of a political subdivision, or DOT, or any joint airport zoning board, which believes that an administrative

²⁴ A copy of FAA AC 70/7460-1K is available at:

http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.current/documentNumber/70_7460-1 (last visited January 6, 2016).

agency's decision is an improper application of airport zoning regulations of concern to the governing body or board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

Current law provides that all appeals are to be taken within a reasonable time, by filing a notice of appeal with the agency from which appeal is taken and with the board. The notice of appeal must specify the grounds of the appeal.

Current law provides that an appeal stays all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed, that by reason of the facts stated in the certification that a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by an order of the board on notice to the agency from which the appeal is taken and on due cause shown.

Current law provides that the board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties, and make its decision within a reasonable time.

Current law provides that the board may reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

Proposed Changes

The bill repeals s. 333.08, F.S., and moves the text into a new s. 333.09(3), F.S.

Administration of Airport Zoning Regulations (s. 333.09, F.S.)

Current Situation

Current law requires that all airport zoning regulations provide for their administration and enforcement by an administrative agency. The administrative agency may be an agency created by such regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the joint airport zoning board. Such administrative agency may not be or include any member of the board of adjustment. The duties of any administrative agency include hearing and deciding all permits, deciding all matters under s. 333.07(3), F.S., as they pertain to the agency, and all other matters under the state's airport zoning law, which applies to the agency, but the agency shall not have or exercise any of the powers delegated to the board of adjustment.

Proposed Changes

Administration

The bill provides that all airport zoning regulations shall provide for the administration and enforcement of those regulations by the political subdivision or its administrative agency. The duties of any administrative agency shall include that of hearing and deciding all permits, as they pertain to such agency, and all other matters under Ch. 333, F.S. applying to the agency.

Local Government Process

The bill creates s. 333.09(2), F.S., providing for a local government permitting process. Any political subdivision required to adopt airport zoning regulations must provide a process to:

- Issue and deny permits.
- Provide DOT with a copy of a complete application.
- Enforce the issuance or denial a permit or other determination made by the administrative agency with respect to airport zoning regulations.

Where a political subdivision already has a zoning board or permitting body, the existing zoning board or permitting body may implement the permitting and appeals process.

Appeals

The bill moves the substance of s. 333.08, F.S. to a newly created s. 333.09(3), F.S., relating to appeals. The language is modified to reflect the conversion from the variance process to a permitting process and to clean-up and update various provisions.

Board of Adjustment (s. 333.10, F.S.)

Current Situation

Current law provides that all airport zoning regulations must provide for a board of adjustment having and exercising the following powers:

- To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations.
- To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations.
- To hear and decide specific variances.

An existing zoning board may be appointed as the board of adjustment.

The majority vote of the board's members is sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

The board of adjustment is required to adopt rules in accordance with the ordinance or resolution creating it.

Proposed Changes

The bill repeals s. 333.10, F.S., reflecting the conversion from the variance process to a permitting process.

Judicial Review (s. 333.11, F.S.)

Current Situation

Current law provides that any person aggrieved, or taxpayer affected, by any decision of a board of adjustment, or any governing body of a political subdivision or DOT or any joint airport zoning board, or of any administrative agency, may apply for judicial relief. The appeal must be filed within 30 days after the board of adjustment renders its decision. Review shall be by petition for writ of certiorari, governed by the Florida Rules of Appellate Procedure.

Upon presentation of such petition to the court, the court may allow a writ of certiorari, directed to the board of adjustment, to review the board's decision. The allowance of the writ does not stay the proceedings upon the decision appealed from, but the court may, under certain circumstances, grant a restraining order.

The court has exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review and if need be, order further proceedings by the board of adjustment. The findings of fact by the board of adjustment, if supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to a board of adjustment decision shall be considered by the court unless such objection shall have been urged before the board of adjustment, or, if it was not so urged, unless there were reasonable grounds for failure to do so.

If airport zoning regulations, although generally reasonable, are held by a court to interfere with the use and enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the State Constitution or the Constitution of the United States, such holding does not affect the application of the regulations to other structures and parcels of land, or other regulations that are not involved in the particular decision.

Current law provides that no appeal is permitted to any courts, save and except an appeal from a decision of the board of adjustment, the appeal provided being from such final decision of the board of adjustment. The appellant is required to exhaust his or her remedies of application for permits, exceptions and variances, and appeal to the board of adjustment, and gaining a determination by said board, before being permitted to appeal to the court.

Proposed Changes

The bill amends s. 333.11(1), F.S., removing references to the board of adjustment and DOT. The bill also changes one reference to the board of adjustment to political subdivision to reflect other changes being made to Ch. 333, F.S.

The bill repeals ss. 333.11(2) and (3), F.S., reflecting the conversion from a variance process to a permitting process.

The bill amends s. 333.011(4), F.S., modifying it for clarity and specificity and for consistency with Ch. 163, F.S.

The bill amends s. 333.011(5), F.S., removing the phrase "although generally reasonable."

The bill amends s. 311.11(6), F.S., providing that a judicial appeal may not be permitted to any courts, until the appellant has exhausted all of its remedies through the application for political subdivision permits, exceptions, and appeals.

Acquisition of Air Rights (s. 333.12, F.S.)

Current Situation

Current law provides that when it is desired to remove, lower, or otherwise terminate a nonconforming structure or use; or the approach protection necessary cannot, due to constitutional limitations, be provided by airport regulations; or it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or nonconforming use is located, or the political subdivision owning or operating the airport or being served by it, may acquire, by purchase, grant, or condemnation such air right, navigation easement, or other estate, portion or interest in the property or nonconforming structure or use or such interest in the air above such property, tree, structure, or use, in question, as may be necessary to effectuate the purposes of Ch. 333, F.S., and in so doing, if by condemnation, to have the right to take immediate possession of the property, interest in property, air right, or other right sought to be condemned. In the case of the purchase of any property or any easement or estate or interest therein or the acquisition by the power of eminent domain the political subdivision making such purchase or exercising such power shall in addition to the damages for the taking, injury or destruction of property also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location.

Proposed Changes

The bill amends s. 333.12, F.S. for clarity, specificity, and internal consistency with definitions, including the replacement of "navigation easement" with the more accurate term "avigation easement."²⁵

²⁵ An avigation easement is the conveyance of airspace over another property for use by the airport.

Enforcement and Remedies (s. 333.13, F.S.)

Current Situation

Current law provides for the enforcement of Ch. 333, F.S., and appropriate remedies.

Proposed Changes

The bill amends s. 333.13(3), F.S., changing a reference to the Department of Transportation to “the department” for internal consistency with the definitions provided in s. 333.01, F.S.

Transition Provisions (s. 333.135, F.S.)

Current Situation

Currently Ch. 333, F.S., does not contain any transition provisions.

Proposed Changes

The bill creates s. 333.135, F.S., providing transition provisions regarding the changes made to Ch. 333, F.S. The bill provides that any airport zoning regulation in effect on July 1, 2016, which include provisions conflicting with Ch. 333, F.S., shall be amended to conform to the requirements of Ch. 333, F.S., by July 1, 2017.

Any political subdivisions having an airport within its territorial limits, which have not adopted airport zoning regulations, shall by July 1, 2017, adopt airport zoning regulations for such airport. The regulations must be consistent with Ch. 333, F.S.

For those political subdivisions that have not yet adopted airport protection zoning regulations, DOT will administer the permitting process as provided in s. 333.025, F.S.

Short Title (s. 333.14, F.S.)

Current Situation

Current law provides the short title “Airport Zoning Law of 1945.”

Proposed Changes

The bill repeals s. 333.14, F.S., eliminating a short title for Ch. 333., F.S.

Statute Reenactment / Florida Transportation Code (s. 350.81(6), F.S.)

The bill reenacts s. 350.81(6), F.S., relating to communication services offered by local governments to incorporate the changes made by the bill to s. 333.01, F.S.

The bill has an effective date of July 1, 2016.

B. SECTION DIRECTORY:

- | | |
|-----------|-------------------------------------------------------------------------------------------------------------------------|
| Section 1 | Amends s. 333.01, F.S., relating to definitions. |
| Section 2 | Amends s. 333.025, F.S., relating to permit required for structures exceeding federal obstruction standards. |
| Section 3 | Amends s. 333.03, F.S., relating to power to adopt airport zoning regulations. |
| Section 4 | Amends s. 333.04, F.S., relating to comprehensive zoning regulations; most stringent to prevail where conflicts occurs. |
| Section 5 | Amends s. 333.05, F.S., relating to procedure for adoption of zoning regulations. |

- Section 6 Amends s. 333.06, F.S., relating to airport zoning requirements.
- Section 7 Amends s. 333.07, F.S., relating to permits and variances.
- Section 8 Amends s. 333.09, F.S., relating to administration of airport zoning regulations.
- Section 9 Amends s. 333.11, F.S., relating to judicial review.
- Section 10 Amends s. 333.12, F.S., relating to acquisition of air rights.
- Section 11 Amends s. 333.13, F.S., relating to enforcement and remedies.
- Section 12 Creates s. 333.135, F.S., relating to transition provisions.
- Section 13 Repeals s. 333.065, F.S., relating to guidelines regarding land use near airports; repeals s. 333.08, F.S., relating to appeals; repeals s. 333.10, F.S., relating to board of adjustment; and repeals s. 333.14, F.S., providing a short title.
- Section 14 Reenacts s. 350.81, F.S., relating to communications services offered by governmental entities.
- Section 15 Provides an effective date.

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:

Political subdivisions that have an airport but no airport zoning regulations may see an indeterminate, but likely insignificant, increase to expenditures related to structural permitting and enforcement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities of counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Chapter 14-60, F.A.C., implements portions of Ch. 333, F.S., relating to airport zoning, as well as other statutes relating to aviation. DOT advises that it is in the process of reviewing and revising its aviation related rules; however, DOT will defer its final revisions, pending the revisions to Ch. 333, F.S., contained in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Airport Zoning Law of 1945;
 3 amending s. 333.01, F.S.; revising and providing
 4 definitions; amending s. 333.025, F.S.; revising
 5 requirements for a permit to construct or alter an
 6 obstruction; revising procedures for issuing such
 7 permit; revising duties of the Department of
 8 Transportation relating to issuance of the permit;
 9 providing for administrative review of a denial of a
 10 permit; amending s. 333.03, F.S.; revising
 11 requirements and procedures for certain local
 12 political subdivisions to adopt and enforce airport
 13 zoning regulations; directing the department to
 14 provide assistance to political subdivisions with
 15 regard to federal obstruction standards; providing
 16 minimum requirements for airport land use
 17 compatibility zoning regulations; directing political
 18 subdivisions to provide the department with copies of
 19 airport protection zoning regulations and airport land
 20 use compatibility zoning regulations; providing
 21 applicability and effect; amending s. 333.04, F.S.;
 22 revising provisions for incorporation of zoning
 23 regulations with a political subdivision's
 24 comprehensive regulations; revising provisions for a
 25 conflict between airport zoning regulations and other
 26 regulations; amending s. 333.05, F.S.; revising

27 | procedure for adoption of zoning regulations; revising
 28 | provisions relating to an airport zoning commission;
 29 | amending s. 333.06, F.S.; revising airport zoning
 30 | regulation requirements; revising requirements for
 31 | adoption of an airport master plan and amendments
 32 | thereto; amending s. 333.07, F.S.; requiring a permit
 33 | to construct, alter, or allow an airport obstruction
 34 | in an airport hazard area under certain circumstances;
 35 | providing conditions for issuance or denial of such
 36 | permit; revising provisions to compel conformance;
 37 | removing provisions for obtaining a variance to zoning
 38 | regulations; removing reference to a board of
 39 | adjustment; revising provisions directing a political
 40 | subdivision to require an owner to install and
 41 | maintain certain lighting or marking of obstructions;
 42 | amending s. 333.09, F.S.; revising requirements for
 43 | administration of airport protection zoning
 44 | regulations; requiring the political subdivision to
 45 | provide a process for permitting, notifications to the
 46 | department, and enforcement; providing for appeal of
 47 | decisions made by the political subdivision; amending
 48 | s. 333.11, F.S.; revising provisions for judicial
 49 | review of decisions by a political subdivision;
 50 | revising jurisdiction of the court relating to
 51 | decisions of the political subdivision; removing
 52 | reference to a board of adjustment; requiring certain

53 | procedures before an appeal to a court; amending s.
 54 | 333.12, F.S.; revising provisions for acquisition of
 55 | property when a nonconforming obstruction is
 56 | determined to be an airport hazard; amending s.
 57 | 333.13, F.S.; revising penalty provisions; creating s.
 58 | 333.135, F.S.; providing a timeframe for compliance by
 59 | political subdivisions; repealing ss. 333.065, 333.08,
 60 | 333.10, and 333.14, F.S., relating to guidelines
 61 | regarding land use near airports, appeals, boards of
 62 | adjustment, and a short title; reenacting s.
 63 | 350.81(6), F.S., relating to communications services
 64 | offered by governmental entities, to incorporate the
 65 | amendment made by the act to s. 333.01, F.S., in a
 66 | reference thereto; providing an effective date.

67 |
 68 | Be It Enacted by the Legislature of the State of Florida:

69 |
 70 | Section 1. Section 333.01, Florida Statutes, is amended to
 71 | read:

72 | 333.01 Definitions.—As used in ~~For the purpose of this~~
 73 | chapter, the term ~~following words, terms, and phrases shall have~~
 74 | ~~the meanings herein given, unless otherwise specifically~~
 75 | ~~defined, or unless another intention clearly appears, or the~~
 76 | ~~context otherwise requires:~~

77 | (1) "Aeronautical study" means a Federal Aviation
 78 | Administration study, conducted in accordance with the standards

79 | of 14 C.F.R. part 77, subpart C, and Federal Aviation
 80 | Administration policy and guidance, on the effect of proposed
 81 | construction or alteration on the operation of air navigation
 82 | facilities and the safe and efficient use of navigable airspace
 83 | ~~"Aeronautics" means transportation by aircraft; the operation,~~
 84 | ~~construction, repair, or maintenance of aircraft, aircraft power~~
 85 | ~~plants and accessories, including the repair, packing, and~~
 86 | ~~maintenance of parachutes; the design, establishment,~~
 87 | ~~construction, extension, operation, improvement, repair, or~~
 88 | ~~maintenance of airports, restricted landing areas, or other air~~
 89 | ~~navigation facilities, and air instruction.~~

90 | (2) "Airport" means any area of land or water designed and
 91 | set aside for the landing and taking off of aircraft and
 92 | utilized or to be utilized in the interest of the public for
 93 | such purpose.

94 | (3) "Airport hazard" means an obstruction to air
 95 | navigation that affects the safe and efficient use of navigable
 96 | airspace or the operation of planned or existing air navigation
 97 | and communication facilities ~~any structure or tree or use of~~
 98 | ~~land which would exceed the federal obstruction standards as~~
 99 | ~~contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29~~
 100 | ~~and which obstructs the airspace required for the flight of~~
 101 | ~~aircraft in taking off, maneuvering, or landing or is otherwise~~
 102 | ~~hazardous to such taking off, maneuvering, or landing of~~
 103 | ~~aircraft and for which no person has previously obtained a~~
 104 | ~~permit or variance pursuant to s. 333.025 or s. 333.07.~~

105 (4) "Airport hazard area" means any area of land or water
 106 upon which an airport hazard might be established ~~if not~~
 107 ~~prevented as provided in this chapter.~~

108 (5) "Airport land use compatibility zoning" means airport
 109 zoning regulations governing ~~restricting~~ the use of land on,
 110 adjacent to, or in the immediate vicinity of airports ~~in the~~
 111 ~~manner enumerated in s. 333.03(2) to activities and purposes~~
 112 ~~compatible with the continuation of normal airport operations~~
 113 ~~including landing and takeoff of aircraft in order to promote~~
 114 ~~public health, safety, and general welfare.~~

115 (6) "Airport layout plan" means a set of scaled drawings
 116 that provides a graphic representation of the existing and
 117 future development plan for the airport and demonstrates the
 118 preservation and continuity of safety, utility, and efficiency
 119 of the airport detailed, scale engineering drawing, including
 120 ~~pertinent dimensions, of an airport's current and planned~~
 121 ~~facilities, their locations, and runway usage.~~

122 (7) "Airport master plan" means a comprehensive plan of an
 123 airport which typically describes current and future plans for
 124 airport development designed to support existing and future
 125 aviation demand.

126 (8) "Airport protection zoning regulations" means airport
 127 zoning regulations governing airport hazards.

128 (9) "Department" means the Department of Transportation.

129 (10) "Educational facility" means any structure, land, or
 130 use thereof that includes a public or private K-12 school,

131 charter school, magnet school, college campus, or university
 132 campus. The term does not include space used for educational
 133 purposes within a multi-tenant building.

134 (11) "Landfill" has the same meaning as provided in s.
 135 403.703.

136 (12)+7) "Obstruction" means any object of natural growth
 137 or terrain, or permanent or temporary construction or
 138 alteration, including equipment or materials used and any
 139 permanent or temporary apparatus, or alteration of any permanent
 140 or temporary existing structure by a change in its height,
 141 including appurtenances, or lateral dimensions, including
 142 equipment or material used therein, existing or proposed, which
 143 exceeds ~~manmade object or object of natural growth or terrain~~
 144 that violates the federal obstruction standards contained in 14
 145 C.F.R. part 77, subpart C ss. 77.21, 77.23, 77.25, 77.28, and
 146 77.29.

147 (13)+8) "Person" means any individual, firm,
 148 copartnership, corporation, company, association, joint-stock
 149 association, or body politic, and includes any trustee,
 150 receiver, assignee, or other similar representative thereof.

151 (14)+9) "Political subdivision" means the local government
 152 of any county, city, town, village, or other subdivision or
 153 agency thereof, or any district or special district, port
 154 commission, port authority, or other such agency authorized to
 155 establish or operate airports in the state.

156 (15) "Public-use airport" means an airport, publicly or

157 privately owned, licensed by the state, which is open for use by
 158 the public.

159 ~~(16)-(10)~~ "Runway protection clear zone" means an area at
 160 ground level beyond the runway end to enhance the safety and
 161 protection of people and property on the ground ~~a runway clear~~
 162 ~~zone as defined in 14 C.F.R. s. 151.9(b).~~

163 ~~(17)-(11)~~ "Structure" means any object, ~~constructed,~~
 164 erected, altered, or installed by humans, including, ~~but~~ without
 165 limitation ~~thereof,~~ buildings, towers, smokestacks, utility
 166 poles, power generation equipment, and overhead transmission
 167 lines.

168 (18) "Substantial modification" means any repair,
 169 reconstruction, rehabilitation, or improvement of a structure
 170 the actual cost of which equals or exceeds 50 percent of the
 171 market value of the structure.

172 ~~(12) "Tree" includes any plant of the vegetable kingdom.~~

173 Section 2. Section 333.025, Florida Statutes, is amended
 174 to read:

175 333.025 Permit required for obstructions ~~structures~~
 176 ~~exceeding federal obstruction standards.-~~

177 (1) A person proposing the construction or alteration of
 178 an obstruction shall obtain a permit from the department ~~In~~
 179 ~~order to prevent the erection of structures dangerous to air~~
 180 ~~navigation,~~ subject to ~~the provisions of~~ subsections (2), (3),
 181 and (4), ~~each person shall secure from the Department of~~
 182 ~~Transportation a permit for the erection, alteration, or~~

183 ~~modification of any structure the result of which would exceed~~
 184 ~~the federal obstruction standards as contained in 14 C.F.R. ss.~~
 185 ~~77.21, 77.23, 77.25, 77.28, and 77.29.~~ However, permits from the
 186 department are ~~of Transportation will be~~ required only within an
 187 airport hazard area where federal obstruction standards are
 188 exceeded and if the proposed construction or alteration is
 189 within a 10-nautical-mile radius of the airport reference point,
 190 located at the approximate geometric ~~geographical~~ center of all
 191 usable runways of a public-use airport or a publicly owned or
 192 operated airport, a military airport, ~~or an airport licensed by~~
 193 ~~the state for public use.~~

194 (2) Existing, planned, and proposed ~~Affected airports will~~
 195 ~~be considered as having those facilities on public-use airports~~
 196 contained in an ~~which are shown on the~~ airport master plan, on
 197 ~~or~~ an airport layout plan submitted to the Federal Aviation
 198 Administration ~~Airport District Office,~~ or in comparable
 199 military documents shall, ~~and will be so~~ protected from airport
 200 hazards. ~~Planned or proposed public-use airports which are the~~
 201 ~~subject of a notice or proposal submitted to the Federal~~
 202 ~~Aviation Administration or to the Department of Transportation~~
 203 ~~shall also be protected.~~

204 (3) A permit is not required for existing structures that
 205 ~~requirements of subsection (1) shall not apply to projects which~~
 206 received construction permits from the Federal Communications
 207 Commission for structures exceeding federal obstruction
 208 standards before ~~prior to~~ May 20, 1975, and a permit is not

209 required for ~~provided such structures now exist; nor shall it~~
 210 ~~apply to previously approved structures now existing, or any~~
 211 necessary replacement or repairs to such existing structures
 212 provided, ~~so long as~~ the height and location are ~~is~~ unchanged.

213 (4) When political subdivisions have, in compliance with
 214 this chapter, adopted adequate airport airspace protection
 215 zoning regulations, placed in compliance with s. 333.03, and
 216 such regulations ~~are~~ on file with the department's Aviation and
 217 Spaceports Office Department of Transportation, and established
 218 a permitting process, a permit for such structure ~~is shall~~ not
 219 ~~be~~ required from the department ~~of Transportation.~~ Upon receipt
 220 of a complete permit application, the local government shall
 221 provide a copy of the application to the department's Aviation
 222 and Spaceports Office by certified mail, return receipt
 223 requested, or by delivery service that provides a receipt
 224 evidencing delivery. To evaluate technical consistency with this
 225 subsection, the department has a 15-day review period following
 226 receipt of the application, which runs concurrently with the
 227 local government permitting process. Cranes, construction
 228 equipment, and other temporary structures in use or in place for
 229 a period not to exceed 18 consecutive months are exempt from
 230 department review unless such review is requested by the
 231 department.

232 (5) The department ~~of Transportation~~ shall, within 30 days
 233 after ~~of the~~ receipt of an application for a permit, issue or
 234 deny a permit for the construction or ~~erection,~~ alteration, ~~or~~

235 ~~modification~~ of an obstruction. The department shall review
 236 permit applications in conformity with s. 120.60 ~~any structure~~
 237 ~~the result of which would exceed federal obstruction standards~~
 238 ~~as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and~~
 239 ~~77.29.~~

240 (6) In determining whether to issue or deny a permit, the
 241 department shall consider:

242 (a) The safety of persons on the ground and in the air.

243 (b) The safe and efficient use of navigable airspace.

244 (c) ~~(a)~~ The nature of the terrain and height of existing
 245 structures.

246 (d) The effect of the construction or alteration of an
 247 obstruction on the state licensing standards for a public-use
 248 airport contained in chapter 330 and rules adopted thereunder.

249 ~~(b) Public and private interests and investments.~~

250 (e) ~~(e)~~ The character of existing and planned flight ~~flying~~
 251 operations and ~~planned~~ developments at public-use ~~of~~ airports.

252 (f) ~~(d)~~ Federal airways, visual flight rules, flyways and
 253 corridors, and instrument approaches as designated by the Federal
 254 Aviation Administration.

255 (g) ~~(e)~~ The effect of ~~whether~~ the construction or
 256 alteration of an obstruction on ~~of the proposed structure would~~
 257 ~~cause an increase in~~ the minimum descent altitude or the
 258 decision height at the affected airport.

259 ~~(f) Technological advances.~~

260 ~~(g) The safety of persons on the ground and in the air.~~

261 ~~(h) Land use density.~~
 262 ~~(i) The safe and efficient use of navigable airspace.~~
 263 (h)(j) The cumulative effects on navigable airspace of all
 264 existing obstructions structures, ~~proposed structures identified~~
 265 ~~in the applicable jurisdictions' comprehensive plans~~, and all
 266 other known proposed obstructions structures in the area.
 267 (7) When issuing a permit under this section, the
 268 department ~~of Transportation shall, as a specific condition of~~
 269 ~~such permit~~, require the owner of the obstruction to install,
 270 operate, and maintain thereon, at the owner's expense, marking
 271 and lighting in conformance with the specific standards
 272 established by the Federal Aviation Administration of the
 273 ~~permitted structure as provided in s. 333.07(3)(b).~~
 274 (8) The department ~~may of Transportation shall~~ not approve
 275 a permit for the construction or alteration of an obstruction
 276 ~~erection of a structure~~ unless the applicant submits ~~both~~
 277 documentation showing compliance with the federal requirement
 278 for notification of proposed construction or alteration and a
 279 valid aeronautical study. ~~A evaluation, and no permit may not~~
 280 ~~shall~~ be approved solely because the Federal Aviation
 281 Administration determines that the proposed obstruction is not
 282 an airport hazard on the basis that such proposed structure will
 283 ~~not exceed federal obstruction standards as contained in 14~~
 284 ~~C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29, or any other~~
 285 ~~federal aviation regulation.~~
 286 (9) The denial of a permit under this section is subject

287 | to administrative review under chapter 120.

288 | Section 3. Section 333.03, Florida Statutes, is amended to
 289 | read:

290 | 333.03 ~~Power to adopt~~ Airport protection zoning
 291 | regulations.-

292 | (1) (a) ~~In order to prevent the creation or establishment~~
 293 | ~~of airport hazards,~~ Every political subdivision having an
 294 | airport hazard area within its territorial limits shall, ~~by~~
 295 | ~~October 1, 1977,~~ adopt, administer, and enforce, under the
 296 | police power and in the manner and upon the conditions
 297 | ~~hereinafter~~ prescribed in this section, airport protection
 298 | zoning regulations for such airport hazard area.

299 | (b) When ~~Where~~ an airport is owned or controlled by a
 300 | political subdivision and any other political subdivision has
 301 | land upon which an obstruction may be constructed or altered,
 302 | which land underlies any of the surfaces of the airport
 303 | described in 14 C.F.R. part 77, subpart C, the political
 304 | subdivisions ~~airport hazard area appertaining to such airport is~~
 305 | ~~located wholly or partly outside the territorial limits of said~~
 306 | ~~political subdivision, the political subdivision owning or~~
 307 | ~~controlling the airport and the political subdivision within~~
 308 | ~~which the airport hazard area is located,~~ shall either:

309 | 1. By interlocal agreement, ~~in accordance with the~~
 310 | ~~provisions of chapter 163,~~ adopt, administer, and enforce a set
 311 | of airport protection zoning regulations ~~applicable to the~~
 312 | ~~airport hazard area in question; or~~

313 2. By ordinance, regulation, or resolution ~~duly adopted~~,
 314 create a joint airport protection zoning board ~~that, which board~~
 315 shall ~~have the same power to~~ adopt, administer, and enforce a
 316 set of airport protection zoning regulations ~~applicable to the~~
 317 ~~airport hazard area in question as that vested in paragraph (a)~~
 318 ~~in the political subdivision within which such area is located.~~
 319 ~~The~~ ~~Each~~ ~~such~~ joint airport protection zoning board shall have
 320 as voting members two representatives appointed by each
 321 participating political subdivision ~~participating in its~~
 322 ~~creation and in addition~~ a chair elected by a majority of the
 323 members ~~so~~ appointed. ~~However,~~ The airport manager or a
 324 representative of each airport in ~~managers of the~~ participating
 325 ~~affected~~ political subdivisions shall serve on the board in a
 326 nonvoting capacity.

327 (c) Airport protection zoning regulations adopted under
 328 paragraph (a) shall, at ~~as~~ a minimum, require:

329 1. A permit ~~variance~~ for the construction or erection,
 330 ~~alteration, or modification~~ of any obstruction ~~structure which~~
 331 ~~would cause the structure to exceed the federal obstruction~~
 332 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~
 333 ~~77.28, and 77.29;~~

334 2. ~~Obstruction~~ Marking and lighting for obstructions
 335 ~~structures as specified in s. 333.07(3);~~

336 3. Documentation showing compliance with the federal
 337 requirement for notification of proposed construction or
 338 alteration of structures and a valid aeronautical study

339 ~~evaluation~~ submitted by each person applying for a permit
 340 ~~variance~~;

341 4. Consideration of the criteria in s. 333.025(6), when
 342 determining whether to issue or deny a permit variance; and

343 5. That a permit may not ~~no variance shall~~ be approved
 344 solely because the Federal Aviation Administration determines
 345 that the proposed obstruction is not an airport hazard on the
 346 ~~basis that such proposed structure will not exceed federal~~
 347 ~~obstruction standards as contained in 14 C.F.R. ss. 77.21,~~
 348 ~~77.23, 77.25, 77.28, or 77.29, or any other federal aviation~~
 349 ~~regulation.~~

350 (d) The department shall be available to provide
 351 assistance to political subdivisions with regard to ~~issue copies~~
 352 ~~of the federal obstruction standards as contained in 14 C.F.R.~~
 353 ~~ss. 77.21, 77.23, 77.25, 77.28, and 77.29 to each political~~
 354 ~~subdivision having airport hazard areas and, in cooperation with~~
 355 ~~political subdivisions, shall issue appropriate airport zoning~~
 356 ~~maps depicting within each county the maximum allowable height~~
 357 ~~of any structure or tree. Material distributed pursuant to this~~
 358 ~~subsection shall be at no cost to authorized recipients.~~

359 (2) In the manner provided in subsection (1), political
 360 subdivisions shall adopt, administer, and enforce interim
 361 ~~airport land use compatibility zoning regulations shall be~~
 362 ~~adopted.~~ Airport land use compatibility zoning regulations
 363 shall, at a minimum, address ~~When political subdivisions have~~
 364 ~~adopted land development regulations in accordance with the~~

365 ~~provisions of chapter 163 which address the use of land in the~~
 366 ~~manner consistent with the provisions herein, adoption of~~
 367 ~~airport land use compatibility regulations pursuant to this~~
 368 ~~subsection shall not be required. Interim airport land use~~
 369 ~~compatibility zoning regulations shall consider the following:~~

370 (a) Prohibiting any new landfills and restricting any
 371 existing ~~Whether sanitary~~ landfills are located within the
 372 following areas:

373 1. Within 10,000 feet from the nearest point of any runway
 374 used or planned to be used by turbine ~~turbojet or turboprop~~
 375 aircraft.

376 2. Within 5,000 feet from the nearest point of any runway
 377 used only by nonturbine ~~piston-type~~ aircraft.

378 3. Outside the perimeters defined in subparagraphs 1. and
 379 2., but still within the lateral limits of the civil airport
 380 imaginary surfaces defined in 14 C.F.R. s. 77.19 ~~part 77.25~~.
 381 Case-by-case review of such landfills is advised.

382 (b) Where ~~Whether~~ any landfill is located and constructed
 383 so that it attracts or sustains hazardous bird movements from
 384 feeding, water, or roosting areas into, or across, the runways
 385 or approach and departure patterns of aircraft. The operator of
 386 such a landfill must be required to ~~political subdivision shall~~
 387 ~~request from the airport authority or other governing body~~
 388 ~~operating the airport a report on such bird feeding or roosting~~
 389 ~~areas that at the time of the request are known to the airport.~~
 390 ~~In preparing its report, the authority, or other governing body,~~

391 ~~shall consider whether the landfill will~~ incorporate bird
 392 management techniques or other practices to minimize bird
 393 hazards to airborne aircraft. ~~The airport authority or other~~
 394 ~~governing body shall respond to the political subdivision no~~
 395 ~~later than 30 days after receipt of such request.~~

396 (c) Where an airport authority or other governing body
 397 operating a ~~publicly owned,~~ public-use airport has conducted a
 398 noise study in accordance with ~~the provisions of~~ 14 C.F.R. part
 399 150 or where a public-use airport owner has established noise
 400 contours pursuant to another public study approved by the Federal
 401 Aviation Administration. Noncompatible land uses, as established
 402 in the noise study under Appendix A to 14 C.F.R. part 150 or as a
 403 part of an alternative public study approved by the Federal
 404 Aviation Administration, are not permitted within the noise
 405 contours established by such study, except where such land use is
 406 specifically contemplated by such study with appropriate
 407 mitigation or similar techniques described in the study, ~~neither~~
 408 ~~residential construction nor any educational facility as defined~~
 409 ~~in chapter 1013, with the exception of aviation school~~
 410 ~~facilities, shall be permitted within the area contiguous to the~~
 411 ~~airport defined by an outer noise contour that is considered~~
 412 ~~incompatible with that type of construction by 14 C.F.R. part~~
 413 ~~150, Appendix A or an equivalent noise level as established by~~
 414 ~~other types of noise studies.~~

415 (d) Where an airport authority or other governing body
 416 operating a ~~publicly owned,~~ public-use airport has not conducted

417 a noise study.~~7~~, ~~neither~~ Residential construction and ~~nor~~ any
 418 educational facility ~~as defined in chapter 1013~~, with the
 419 exception of an aviation school facility facilities, are not
 420 ~~shall be~~ permitted within an area contiguous to the airport
 421 measuring one-half the length of the longest runway on either
 422 side of and at the end of each runway centerline.

423 (e)(3) Restricting ~~In the manner provided in subsection~~
 424 ~~(1)~~, ~~airport zoning regulations shall be adopted which restrict~~
 425 ~~new incompatible uses, activities, or~~ substantial modifications
 426 to existing incompatible uses ~~construction~~ within runway
 427 protection ~~clear zones, including uses, activities, or~~
 428 ~~construction in runway clear zones which are incompatible with~~
 429 ~~normal airport operations or endanger public health, safety, and~~
 430 ~~welfare by resulting in congregations of people, emissions of~~
 431 ~~light or smoke, or attraction of birds. Such regulations shall~~
 432 ~~prohibit the construction of an educational facility of a public~~
 433 ~~or private school at either end of a runway of a publicly owned,~~
 434 ~~public-use airport within an area which extends 5 miles in a~~
 435 ~~direct line along the centerline of the runway, and which has a~~
 436 ~~width measuring one-half the length of the runway. Exceptions~~
 437 ~~approving construction of an educational facility within the~~
 438 ~~delineated area shall only be granted when the political~~
 439 ~~subdivision administering the zoning regulations makes specific~~
 440 ~~findings detailing how the public policy reasons for allowing~~
 441 ~~the construction outweigh health and safety concerns prohibiting~~
 442 ~~such a location.~~

443 ~~(4) The procedures outlined in subsections (1), (2), and~~
 444 ~~(3) for the adoption of such regulations are supplemental to any~~
 445 ~~existing procedures utilized by political subdivisions in the~~
 446 ~~adoption of such regulations.~~

447 (3)(5) Political subdivisions shall provide ~~The Department~~
 448 ~~of Transportation shall provide technical assistance to any~~
 449 ~~political subdivision requesting assistance in the preparation~~
 450 ~~of an airport zoning code. a copy of all local airport~~
 451 protection zoning codes, rules, and regulations and airport land
 452 use compatibility zoning regulations, together with any related
 453 amendments, to the department's Aviation and Spaceports Office
 454 within 30 days after adoption, ~~and amendments and proposed and~~
 455 ~~granted variances thereto, shall be filed with the department.~~

456 ~~(4)(6) Nothing in Subsection (2) does not or subsection~~
 457 ~~(3) shall be construed to require the removal, alteration, sound~~
 458 ~~conditioning, or other change to, or to interfere with the~~
 459 ~~continued use or adjacent expansion of, any educational facility~~
 460 ~~structure or site in existence on July 1, 1993, or be construed~~
 461 ~~to prohibit the construction of any new structure for which a~~
 462 ~~site has been determined as provided in former s. 235.19, as of~~
 463 ~~July 1, 1993.~~

464 (5) This section does not preclude an airport authority,
 465 political subdivision or its administrative agency, or other
 466 governing body operating a public-use airport from establishing
 467 airport zoning regulations more restrictive than prescribed in
 468 this section in order to protect the health, safety, and welfare

469 of the public in the air and on the ground.

470 Section 4. Section 333.04, Florida Statutes, is amended to
 471 read:

472 333.04 Comprehensive plans or policies ~~zoning regulations~~;
 473 most stringent zoning regulations to prevail where conflicts
 474 occur.-

475 (1) INCORPORATION.-~~If In the event that~~ a political
 476 subdivision ~~has adopted, or hereafter adopts,~~ a comprehensive
 477 plan or policy that regulates ~~zoning ordinance regulating, among~~
 478 ~~other things,~~ the height of buildings, structures, and natural
 479 objects, and uses of property, any airport zoning regulations
 480 applicable to the same area or portion thereof may be
 481 incorporated in and made a part of such comprehensive plan or
 482 policy ~~zoning regulations,~~ and be administered and enforced in
 483 connection therewith.

484 (2) CONFLICT.-If there is a ~~In the event of~~ conflict
 485 between any airport zoning regulations adopted under this
 486 chapter and any other regulations applicable to the same area,
 487 whether the conflict be with respect to the height of structures
 488 or vegetation ~~trees,~~ the use of land, or any other matter, and
 489 whether such regulations were adopted by the political
 490 subdivision that ~~which~~ adopted the airport zoning regulations or
 491 by some other political subdivision, the more stringent
 492 limitation or requirement shall govern and prevail.

493 Section 5. Section 333.05, Florida Statutes, is amended to
 494 read:

495 333.05 Procedure for adoption of zoning regulations.-
 496 (1) NOTICE AND HEARING.-~~No~~ Airport zoning regulations may
 497 not shall be adopted, amended, or repealed ~~changed~~ under this
 498 chapter except by action of the legislative body of the
 499 political subdivision or affected subdivisions ~~in question~~, or
 500 the joint board provided for in s. 333.03(1)(b)2. ~~333.03(1)(b)~~
 501 ~~by the bodies therein provided and set forth~~, after a public
 502 hearing on the adoption, amendment, or repeal ~~in relation~~
 503 ~~thereto~~, at which parties in interest and citizens shall have an
 504 opportunity to be heard. Notice of the hearing shall be
 505 published at least once a week for 2 consecutive weeks in a
 506 newspaper ~~an official paper, or a paper~~ of general circulation,
 507 in the political subdivision or subdivisions where ~~in which are~~
 508 ~~located~~ the airport zoning regulations ~~areas~~ to be adopted,
 509 amended, or deleted ~~zoned~~.
 510 (2) AIRPORT ZONING COMMISSION.-Before ~~Prior to~~ the initial
 511 zoning of any airport area under this chapter, the political
 512 subdivision or joint airport zoning board that ~~which~~ is to
 513 adopt, administer, and enforce the regulations shall appoint a
 514 commission, to be known as the airport zoning commission, to
 515 recommend the boundaries of the various zones to be established
 516 and the regulations to be adopted therefor. The ~~Such~~ commission
 517 shall make a preliminary report and hold public hearings on the
 518 preliminary report ~~thereon~~ before submitting its final report.
 519 ~~and~~ The legislative body of the political subdivision or the
 520 joint airport zoning board may ~~shall~~ not hold ~~its~~ public

521 | hearings or take any action until it has received the final
 522 | report of the ~~such~~ commission, and at least 15 days have elapsed
 523 | ~~shall elapse~~ between the receipt of the final report of the
 524 | commission and the hearing to be held by the legislative body or
 525 | the ~~latter~~ board. Where a planning city plan commission, airport
 526 | commission, or comprehensive zoning commission already exists,
 527 | it may be appointed as the airport zoning commission.

528 | Section 6. Section 333.06, Florida Statutes, is amended to
 529 | read:

530 | 333.06 Airport zoning regulation requirements.—

531 | (1) REASONABLENESS.—All airport zoning regulations adopted
 532 | under this chapter shall be reasonable and ~~none~~ shall not impose
 533 | any requirement or restriction that ~~which~~ is not reasonably
 534 | necessary to effectuate the purposes of this chapter. In
 535 | determining what regulations it may adopt, each political
 536 | subdivision and joint airport zoning board shall consider, among
 537 | other things, the character of the flying operations expected to
 538 | be conducted at the airport, the nature of the terrain within
 539 | the airport hazard area and runway protection ~~clear~~ zones, the
 540 | character of the neighborhood, the uses to which the property to
 541 | be zoned is put and adaptable, and the impact of any new use,
 542 | activity, or construction on the airport's operating capability
 543 | and capacity.

544 | (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport
 545 | zoning regulations adopted under this chapter is to provide ~~both~~
 546 | airspace protection and land uses ~~use~~ compatible with airport

547 operations. Each aspect of this purpose requires independent
 548 justification in order to promote the public interest in safety,
 549 health, and general welfare. Specifically, construction in a
 550 runway protection ~~clear~~ zone which does not exceed airspace
 551 height restrictions is not conclusive evidence ~~per se~~ that such
 552 use, activity, or construction is compatible with airport
 553 operations.

554 (3) NONCONFORMING USES.—~~No~~ Airport protection zoning
 555 regulations adopted under this chapter may not ~~shall~~ require the
 556 removal, lowering, or other change or alteration of any
 557 obstruction ~~structure or tree~~ not conforming to the regulations
 558 when adopted or amended, or otherwise interfere with the
 559 continuance of any nonconforming use, except as provided in s.
 560 333.07(1) and (3).

561 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED
 562 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by
 563 each public-use ~~publicly owned and operated~~ airport licensed by
 564 the department ~~of Transportation~~ under chapter 330. The
 565 authorized entity having responsibility for governing the
 566 operation of the airport, when ~~either~~ requesting from or
 567 submitting to a state or federal governmental agency with
 568 funding or approval jurisdiction a "finding of no significant
 569 impact," an environmental assessment, a site-selection study, an
 570 airport master plan, or any amendment to an airport master plan,
 571 shall submit simultaneously a copy of said request, submittal,
 572 assessment, study, plan, or amendments by certified mail to all

573 affected local governments. For ~~the~~ purposes of this subsection,
 574 "affected local government" means ~~is defined as~~ any city or
 575 county having jurisdiction over the airport and any city or
 576 county located within 2 miles of the boundaries of the land
 577 subject to the airport master plan.

578 Section 7. Section 333.07, Florida Statutes, is amended to
 579 read:

580 333.07 Local government permitting of airspace
 581 obstructions ~~Permits and variances.~~-

582 (1) PERMITS.-

583 (a) A person proposing to construct, alter, or allow an
 584 airport obstruction in an airport hazard area in violation of
 585 the airport protection zoning regulations adopted under this
 586 chapter shall apply for a permit. ~~A Any airport zoning~~
 587 ~~regulations adopted under this chapter may require that a permit~~
 588 ~~be obtained before any new structure or use may be constructed~~
 589 ~~or established and before any existing use or structure may be~~
 590 ~~substantially changed or substantially altered or repaired. In~~
 591 ~~any event, however, all such regulations shall provide that~~
 592 ~~before any nonconforming structure or tree may be replaced,~~
 593 ~~substantially altered or repaired, rebuilt, allowed to grow~~
 594 ~~higher, or replanted, a permit must be secured from the~~
 595 ~~administrative agency authorized to administer and enforce the~~
 596 ~~regulations, authorizing such replacement, change, or repair. No~~
 597 ~~permit may not~~ shall be issued ~~granted~~ that would allow the
 598 establishment or creation of an airport hazard or that would

599 | permit a nonconforming obstruction ~~structure or tree or~~
 600 | ~~nonconforming use to be made or become higher or~~ to become a
 601 | greater hazard to air navigation than ~~it was~~ when the applicable
 602 | airport protection zoning regulation was adopted that allowed
 603 | the establishment or creation of the obstruction or than ~~it is~~
 604 | when the application for a permit is made.

605 | (b) Whenever the political subdivision or its
 606 | administrative agency determines that a nonconforming
 607 | obstruction ~~use or nonconforming structure or tree~~ has been
 608 | abandoned or that is more than 80 percent of the obstruction is
 609 | torn down, destroyed, deteriorated, or decayed, a ~~no~~ permit may
 610 | not shall be granted that would allow the obstruction ~~said~~
 611 | ~~structure or tree~~ to exceed the applicable height limit or
 612 | otherwise deviate from the airport protection zoning
 613 | regulations. ~~and,~~ Regardless of whether an application is made
 614 | for a permit under this subsection ~~or not,~~ ~~the said agency may~~
 615 | ~~by appropriate action, compel~~ the owner of the nonconforming
 616 | obstruction may be required ~~structure or tree,~~ at his or her own
 617 | expense, to lower, remove, reconstruct, alter, or equip such
 618 | obstruction ~~object~~ as ~~may be~~ necessary to conform to the current
 619 | airport protection zoning regulations. If the owner of the
 620 | nonconforming obstruction ~~fails or refuses~~ ~~structure or tree~~
 621 | ~~shall neglect or refuse~~ to comply with such requirement within
 622 | ~~order for~~ 10 days after notice ~~thereof,~~ the administrative ~~said~~
 623 | agency may report the violation to the political subdivision
 624 | involved therein, which subdivision, through its appropriate

625 agency, may proceed to have the obstruction ~~object~~ so lowered,
 626 removed, reconstructed, altered, or equipped, and assess the
 627 cost and expense thereof upon the owner of the obstruction
 628 ~~object~~ or the land whereon it is or was located, ~~and, unless~~
 629 ~~such an assessment is paid within 90 days from the service of~~
 630 ~~notice thereof on the owner or the owner's agent, of such object~~
 631 ~~or land, the sum shall be a lien on said land, and shall bear~~
 632 ~~interest thereafter at the rate of 6 percent per annum until~~
 633 ~~paid, and shall be collected in the same manner as taxes on real~~
 634 ~~property are collected by said political subdivision, or, at the~~
 635 ~~option of said political subdivision, said lien may be enforced~~
 636 ~~in the manner provided for enforcement of liens by chapter 85.~~

637 ~~(c) Except as provided herein, applications for permits~~
 638 ~~shall be granted, provided the matter applied for meets the~~
 639 ~~provisions of this chapter and the regulations adopted and in~~
 640 ~~force hereunder.~~

641 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.—In
 642 determining whether to issue or deny a permit, the political
 643 subdivision or its administrative agency shall consider the
 644 following, as applicable:

645 (a) The safety of persons on the ground and in the air.

646 (b) The safe and efficient use of navigable airspace.

647 (c) The nature of the terrain and height of existing
 648 structures.

649 (d) The effect of the construction or alteration on the
 650 state licensing standards for a public-use airport contained in

651 | chapter 330 and rules adopted thereunder.

652 | (e) The character of existing and planned flight
 653 | operations and developments at public-use airports.

654 | (f) Federal airways, visual flight rules, flyways and
 655 | corridors, and instrument approaches as designated by the
 656 | Federal Aviation Administration.

657 | (g) The effect of the construction or alteration of the
 658 | proposed structure on the minimum descent altitude or the
 659 | decision height at the affected airport.

660 | (h) The cumulative effects on navigable airspace of all
 661 | existing structures and all other known proposed structures in
 662 | the area.

663 | (i) Additional requirements adopted by the political
 664 | subdivision or administrative agency pertinent to evaluation and
 665 | protection of airspace and airport operations.

666 | ~~(2) VARIANCES.~~

667 | ~~(a) Any person desiring to erect any structure, increase~~
 668 | ~~the height of any structure, permit the growth of any tree, or~~
 669 | ~~otherwise use his or her property in violation of the airport~~
 670 | ~~zoning regulations adopted under this chapter or any land~~
 671 | ~~development regulation adopted pursuant to the provisions of~~
 672 | ~~chapter 163 pertaining to airport land use compatibility, may~~
 673 | ~~apply to the board of adjustment for a variance from the zoning~~
 674 | ~~regulations in question. At the time of filing the application,~~
 675 | ~~the applicant shall forward to the department by certified mail,~~
 676 | ~~return receipt requested, a copy of the application. The~~

677 | ~~department shall have 45 days from receipt of the application to~~
 678 | ~~comment and to provide its comments or waiver of that right to~~
 679 | ~~the applicant and the board of adjustment. The department shall~~
 680 | ~~include its explanation for any objections stated in its~~
 681 | ~~comments. If the department fails to provide its comments within~~
 682 | ~~45 days of receipt of the application, its right to comment is~~
 683 | ~~waived. The board of adjustment may proceed with its~~
 684 | ~~consideration of the application only upon the receipt of the~~
 685 | ~~department's comments or waiver of that right as demonstrated by~~
 686 | ~~the filing of a copy of the return receipt with the board.~~
 687 | ~~Noncompliance with this section shall be grounds to appeal~~
 688 | ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~
 689 | ~~to s. 333.11. Such variances may only be allowed where a literal~~
 690 | ~~application or enforcement of the regulations would result in~~
 691 | ~~practical difficulty or unnecessary hardship and where the~~
 692 | ~~relief granted would not be contrary to the public interest but~~
 693 | ~~would do substantial justice and be in accordance with the~~
 694 | ~~spirit of the regulations and this chapter. However, any~~
 695 | ~~variance may be allowed subject to any reasonable conditions~~
 696 | ~~that the board of adjustment may deem necessary to effectuate~~
 697 | ~~the purposes of this chapter.~~

698 | ~~(b) The Department of Transportation shall have the~~
 699 | ~~authority to appeal any variance granted under this chapter~~
 700 | ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~
 701 | ~~to s. 333.11.~~

702 | (3) OBSTRUCTION MARKING AND LIGHTING.—

703 ~~(a) When issuing a In granting any permit or variance~~
 704 under this section, the political subdivision or its
 705 administrative agency ~~or board of adjustment~~ shall require the
 706 owner of the obstruction structure or tree in question to
 707 install, operate, and maintain thereon, at the owner's ~~his or~~
 708 ~~her own~~ expense, ~~such~~ marking and lighting in conformance with
 709 the specific standards established by the Federal Aviation
 710 Administration as may be necessary to indicate to aircraft
 711 ~~pilots the presence of an obstruction.~~

712 ~~(b) Such marking and lighting shall conform to the~~
 713 ~~specific standards established by rule by the Department of~~
 714 ~~Transportation.~~

715 ~~(c) Existing structures not in compliance on October 1,~~
 716 ~~1988, shall be required to comply whenever the existing marking~~
 717 ~~requires refurbishment, whenever the existing lighting requires~~
 718 ~~replacement, or within 5 years of October 1, 1988, whichever~~
 719 ~~occurs first.~~

720 Section 8. Section 333.09, Florida Statutes, is amended to
 721 read:

722 333.09 Administration of airport zoning regulations.—

723 (1) ADMINISTRATION.—All airport zoning regulations adopted
 724 under this chapter shall provide for the administration and
 725 enforcement of such regulations by the political subdivision or
 726 its ~~an~~ administrative agency ~~which may be an agency created by~~
 727 ~~such regulations or any official, board, or other existing~~
 728 ~~agency of the political subdivision adopting the regulations or~~

729 ~~of one of the political subdivisions which participated in the~~
 730 ~~creation of the joint airport zoning board adopting the~~
 731 ~~regulations, if satisfactory to that political subdivision, but~~
 732 ~~in no case shall such administrative agency be or include any~~
 733 ~~member of the board of adjustment.~~ The duties of an any
 734 administrative agency designated pursuant to this chapter shall
 735 include ~~that of~~ hearing and deciding all permits under s. 333.07
 736 ~~333.07(1), deciding all matters under s. 333.07(3),~~ as they
 737 pertain to such agency, and all other matters under this chapter
 738 applying to such said agency, ~~but such agency shall not have or~~
 739 ~~exercise any of the powers herein delegated to the board of~~
 740 ~~adjustment.~~

741 (2) LOCAL GOVERNMENT PROCESS.-

742 (a) A political subdivision required to adopt airport
 743 zoning regulations under this chapter shall provide a process to:

- 744 1. Issue or deny permits consistent with s. 333.07.
- 745 2. Provide the department with a copy of a complete
 746 application consistent with s. 333.025(4).
- 747 3. Enforce the issuance or denial of a permit or other
 748 determination made by the administrative agency with respect to
 749 airport zoning regulations.

750 (b) If a zoning board or permitting body already exists
 751 within a political subdivision, the zoning board or permitting
 752 body may implement the airport zoning regulation permitting and
 753 appeals processes.

754 (3) APPEALS.-

755 (a) A person, a political subdivision or its administrative
 756 agency, or a joint airport zoning board that contends that a
 757 decision made by a political subdivision or its administrative
 758 agency is an improper application of airport zoning regulations
 759 may use the process established for an appeal.

760 (b) All appeals taken under this section must be taken
 761 within a reasonable time, as provided by the political
 762 subdivision or its administrative agency, by filing with the
 763 entity from which appeal is taken a notice of appeal specifying
 764 the grounds for appeal.

765 (c) An appeal shall stay all proceedings in the underlying
 766 action appealed from, unless the entity from which the appeal is
 767 taken certifies, pursuant to the rules for appeal, that by reason
 768 of the facts stated in the certificate a stay would, in its
 769 opinion, cause imminent peril to life or property. In such cases,
 770 proceedings shall not be stayed except by order of the political
 771 subdivision or its administrative agency on notice to the entity
 772 from which the appeal is taken and for good cause shown.

773 (d) The political subdivision or its administrative agency
 774 shall set a reasonable time for the hearing of appeals, give
 775 public notice and due notice to the parties in interest, and
 776 decide the issue within a reasonable time. Upon the hearing, any
 777 party may appear in person, by agent, or by attorney.

778 (e) The political subdivision or its administrative agency
 779 may, in conformity with this chapter, affirm, reverse, or modify
 780 the decision on the permit or other determination from which the

781 appeal is taken.

782 Section 9. Section 333.11, Florida Statutes, is amended to
783 read:

784 333.11 Judicial review.-

785 (1) A ~~Any person, aggrieved, or taxpayer affected, by any~~
786 ~~decision of a board of adjustment, or any governing body of a~~
787 ~~political subdivision, or the Department of Transportation or~~
788 ~~any joint airport zoning board~~ affected by a decision of a
789 political subdivision, ~~or its~~ ~~of any~~ administrative agency
790 ~~hereunder,~~ may apply for judicial relief to the circuit court in
791 the judicial circuit where the political subdivision ~~board of~~
792 ~~adjustment~~ is located within 30 days after rendition of the
793 decision ~~by the board of adjustment.~~ Review shall be by petition
794 for writ of certiorari, which shall be governed by the Florida
795 Rules of Appellate Procedure.

796 ~~(2) Upon presentation of such petition to the court, it~~
797 ~~may allow a writ of certiorari, directed to the board of~~
798 ~~adjustment, to review such decision of the board. The allowance~~
799 ~~of the writ shall not stay the proceedings upon the decision~~
800 ~~appealed from, but the court may, on application, on notice to~~
801 ~~the board, on due hearing and due cause shown, grant a~~
802 ~~restraining order.~~

803 ~~(3) The board of adjustment shall not be required to~~
804 ~~return the original papers acted upon by it, but it shall be~~
805 ~~sufficient to return certified or sworn copies thereof or of~~
806 ~~such portions thereof as may be called for by the writ. The~~

807 | ~~return shall concisely set forth such other facts as may be~~
 808 | ~~pertinent and material to show the grounds of the decision~~
 809 | ~~appealed from and shall be verified.~~

810 | ~~(2)(4)~~ The court has ~~shall have~~ exclusive jurisdiction to
 811 | affirm, reverse, or modify, ~~or set aside~~ the decision on the
 812 | permit or other determination from which the appeal is taken
 813 | ~~brought up for review, in whole or in part,~~ and, if appropriate
 814 | ~~need be,~~ to order further proceedings by the political
 815 | subdivision or its administrative agency board of adjustment.
 816 | The findings of fact by the political subdivision or its
 817 | administrative agency board, if supported by substantial
 818 | evidence, shall be accepted by the court as conclusive, and an
 819 | ~~no~~ objection to a decision of the political subdivision or its
 820 | administrative agency may not board shall be considered by the
 821 | court unless such objection was raised in the underlying
 822 | proceeding shall have been urged before the board, or, if it was
 823 | ~~not so urged, unless there were reasonable grounds for failure~~
 824 | ~~to do so.~~

825 | ~~(3)(5)~~ In any case in which airport zoning regulations
 826 | adopted under this chapter, ~~although generally reasonable,~~ are
 827 | held by a court to interfere with the use and enjoyment of a
 828 | particular structure or parcel of land to such an extent, or to
 829 | be so onerous in their application to such a structure or parcel
 830 | of land, as to constitute a taking or deprivation of that
 831 | property in violation of the State Constitution or the
 832 | Constitution of the United States, such holding shall not affect

833 the application of such regulations to other structures and
 834 parcels of land, or such regulations as are not involved in the
 835 particular decision.

836 ~~(4)(6)~~ A judicial ~~Ne~~ appeal to any court may not ~~shall~~ be
 837 ~~or is~~ permitted under this section until the appellant has
 838 exhausted all of its remedies through application for local
 839 government permits, exceptions, and appeals, ~~to any courts, as~~
 840 ~~herein provided, save and except an appeal from a decision of~~
 841 ~~the board of adjustment, the appeal herein provided being from~~
 842 ~~such final decision of such board only, the appellant being~~
 843 ~~hereby required to exhaust his or her remedies hereunder of~~
 844 ~~application for permits, exceptions and variances, and appeal to~~
 845 ~~the board of adjustment, and gaining a determination by said~~
 846 ~~board, before being permitted to appeal to the court hereunder.~~

847 Section 10. Section 333.12, Florida Statutes, is amended
 848 to read:

849 333.12 Acquisition of air rights. ~~-If In any case which: it~~
 850 ~~is desired to remove, lower or otherwise terminate a~~
 851 nonconforming obstruction is determined to be an airport hazard
 852 and the owner will not remove, lower, or otherwise eliminate it
 853 ~~structure or use; if~~ if ~~or~~ the approach protection necessary
 854 cannot, because of constitutional limitations, be provided by
 855 airport regulations under this chapter; or if it appears
 856 advisable that the necessary approach protection be provided by
 857 acquisition of property rights rather than by airport zoning
 858 regulations, the political subdivision within which the property

859 or nonconforming obstruction ~~use~~ is located, or the political
 860 subdivision owning or operating the airport or being served by
 861 it, may acquire~~7~~ by purchase, grant, or condemnation in the
 862 manner provided by chapter 73~~7~~ such property, air right,
 863 avigation ~~navigation~~ easement, or other estate, portion, or
 864 interest in the property or nonconforming obstruction ~~structure~~
 865 ~~or use~~ or such interest in the air above such property, ~~tree,~~
 866 ~~structure, or use, in question,~~ as may be necessary to
 867 effectuate the purposes of this chapter, and ~~in so doing~~, if by
 868 condemnation, may ~~to have the right to~~ take immediate possession
 869 of the property, interest in property, air right, or other right
 870 sought to be condemned, at the time, ~~and~~ in the manner and form,
 871 and as authorized by chapter 74. If the political subdivision
 872 acquires any ~~In the case of the purchase of any property, or any~~
 873 ~~easement,~~ or estate or interest therein by purchase or ~~the~~
 874 ~~acquisition of the same~~ by the power of eminent domain, the
 875 political subdivision ~~making such purchase or exercising such~~
 876 ~~power~~ shall, in addition to the damages for the taking, injury,
 877 or destruction of property, also ~~pay~~ the cost of the removal and
 878 relocation of any structure or any public utility that must
 879 ~~which is required to~~ be moved to a new location.

880 Section 11. Section 333.13, Florida Statutes, is amended
 881 to read:

882 333.13 Enforcement and remedies.—

883 (1) A ~~Each~~ violation of this chapter or ~~of~~ any airport
 884 zoning regulations, orders, or rulings adopted ~~promulgated~~ or

885 | made under ~~pursuant to~~ this chapter is ~~shall constitute~~ a
 886 | misdemeanor of the second degree, punishable as provided in s.
 887 | 775.082 or s. 775.083, and each day a violation continues to
 888 | exist constitutes ~~shall constitute~~ a separate offense.

889 | (2) In addition, the political subdivision or agency
 890 | adopting the airport zoning regulations under this chapter may
 891 | institute in any court of competent jurisdiction an action to
 892 | prevent, restrain, correct, or abate a ~~any~~ violation of this
 893 | chapter, any ~~or of~~ airport zoning regulations adopted under this
 894 | chapter, or ~~of~~ any order or ruling made in connection with their
 895 | administration or enforcement, and the court shall adjudge to
 896 | the plaintiff such relief, by way of injunction (which may be
 897 | mandatory) or otherwise, as may be proper under all the facts
 898 | and circumstances of the case in order to fully effectuate the
 899 | purposes of this chapter and of the regulations adopted and
 900 | orders and rulings made pursuant thereto.

901 | (3) The department ~~of Transportation~~ may institute a civil
 902 | action for injunctive relief in the appropriate circuit court to
 903 | prevent violation of ~~any provision of~~ this chapter.

904 | Section 12. Section 333.135, Florida Statutes, is created
 905 | to read:

906 | 333.135 Transition provisions.-

907 | (1) For those political subdivisions that have not adopted
 908 | airport zoning regulations pursuant to this chapter, the
 909 | department shall administer the permitting process as provided in
 910 | s. 333.025.

911 (2) By July 1, 2017:

912 (a) Any airport zoning regulation in effect on July 1,
 913 2016, that includes provisions in conflict with this chapter
 914 shall be amended to conform to the requirements of this chapter.

915 (b) Any political subdivision having an airport within its
 916 territorial limits which has not adopted airport zoning
 917 regulations shall adopt airport zoning regulations consistent
 918 with this chapter.

919 Section 13. Sections 333.065, 333.08, 333.10, and 333.14,
 920 Florida Statutes, are repealed.

921 Section 14. For the purpose of incorporating the amendment
 922 made by this act to section 333.01, Florida Statutes, in a
 923 reference thereto, subsection (6) of section 350.81, Florida
 924 Statutes, is reenacted to read:

925 350.81 Communications services offered by governmental
 926 entities.-

927 (6) To ensure the safe and secure transportation of
 928 passengers and freight through an airport facility, as defined
 929 in s. 159.27(17), an airport authority or other governmental
 930 entity that provides or is proposing to provide communications
 931 services only within the boundaries of its airport layout plan,
 932 as defined in s. 333.01(6), to subscribers which are integral
 933 and essential to the safe and secure transportation of
 934 passengers and freight through the airport facility, is exempt
 935 from this section. An airport authority or other governmental
 936 entity that provides or is proposing to provide shared-tenant

937 service under s. 364.339, but not dial tone enabling subscribers
 938 to complete calls outside the airport layout plan, to one or
 939 more subscribers within its airport layout plan which are not
 940 integral and essential to the safe and secure transportation of
 941 passengers and freight through the airport facility is exempt
 942 from this section. An airport authority or other governmental
 943 entity that provides or is proposing to provide communications
 944 services to one or more subscribers within its airport layout
 945 plan which are not integral and essential to the safe and secure
 946 transportation of passengers and freight through the airport
 947 facility, or to one or more subscribers outside its airport
 948 layout plan, is not exempt from this section. By way of example
 949 and not limitation, the integral, essential subscribers may
 950 include airlines and emergency service entities, and the
 951 nonintegral, nonessential subscribers may include retail shops,
 952 restaurants, hotels, or rental car companies.

953 Section 15. This act shall take effect July 1, 2016.