

**TO:** AIRPORT COMMISSION

**FROM:** Matthew Kazmierczak  
Manager of Strategy and Policy

**SUBJECT:** LEGISLATIVE UPDATE

**DATE:** May 1, 2018

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## FEDERAL

### FAA Reauthorization

The House of Representatives approved [H.R. 4, the FAA Reauthorization Act](#) by a final vote of 393-13. The legislation would reauthorize FAA programs through 2023, including appropriations for the Airport Improvement Program (AIP), and would implement a number of FAA certification reforms. The bill does not include controversial provisions that would separate FAA's oversight and air traffic control (ATC) functions by converting the Air Traffic Organization (ATO) into a non-profit, non-governmental corporation.

Select details of the House FAA Reauthorization Bill:

- No change to the federal cap on the Passenger Facility Charge (PFC)
- Limitations on FAA's regulation of non-federally sponsored property related to an airport's ability to generate non-aeronautical revenue
- Mothers' Rooms: The bill includes language that would require large and medium hub airports to install mothers' rooms in their terminals with sinks or sanitizing equipment.
- Cost Free Space: The bill language that would require the FAA to pay for the space the agency uses at airports.
- Authorizes AIP funding at:
  - \$3.35 billion for FY18
  - \$4.37 billion for FY19
  - \$4.39 billion for FY20
  - \$4.41 billion for FY21
  - \$4.43 billion for FY22
  - \$4.46 billion for FY23
- Authorizes supplemental AIP funding (not available to large hub airports):
  - \$1.02 billion for FY19
  - \$1.04 billion for FY20
  - \$1.06 billion for FY21
  - \$1.08 billion for FY22
  - \$1.1 billion for FY23

Attention now moves to the Senate, which has its own version of the legislation awaiting consideration by the full body.

### Federal FY2018 Omnibus

Congress passed the FY 2018 Omnibus spending bill in March 2018. Highlights of the bill includes the following:

- \$45 million for TSA Law Enforcement Officer reimbursements
- Rejects shifting TSA exit lane staffing over to airports
- Adds 328 CBP officers above current requests from the Administration
- Caps CBP overtime at \$45,000, \$10,000 higher than the Administration's request

For more details see the attached summary from the Airport's trade association AAAE.

## **STATE**

### Monitoring Items

AB 2065 (Ting) – Local agencies: surplus land

Summary: In recognition of the housing crisis in California, this bill would make surplus government land available for low and moderate-income families. This bill expands the definition of surplus land and the disposing agency can only negotiate the sale price or lease terms. The agency must give the highest priority to bids that agree to use the site for housing.

### Monitoring Turo Issues

- Turo is a personal vehicle sharing company that facilitates the rental of personal vehicles between two private parties. Airports are concerned about the company, its agents, and/or its users operating at and/or utilizing airport property and infrastructure without an authorized business permit and without coordinating activity with the airports.
- AB 2873 - This bill would ensure that personal vehicle sharing programs (PVSPs) are prohibited from arranging to put any vehicle on the road for transportation purposes that is subject to a manufacturer's safety recall.
- The City of San Francisco is suing Turo, alleging that Turo has failed to pay the fees required to operate legally at SFO airport. Turo claims it shouldn't be subject to the same regulations as legacy rental car companies. The City of San Francisco says that Turo is not following the rules that are in place to keep people safe and to maintain a level playing field.

## **More Details on FY18 Omnibus Appropriations Package**

**March 21, 2018**

As we reported earlier, lawmakers this evening unveiled a \$1.3 trillion omnibus spending bill for Fiscal Year 2018 that includes an additional \$1 billion for airport infrastructure projects, but does not contain a bipartisan Senate proposal to raise the PFC cap to \$8.50 for originating passengers. Airports have been pressing Congress to adjust the PFC cap as a way to finance critical infrastructure projects.

On the security front, the final FY18 spending bill contains \$45 million for the TSA Law Enforcement Officer Reimbursement Program and rejects a White House proposal that would have shifted exit lane responsibility to airports. Lawmakers endorsed airport calls to maintain federal funding for both airport security programs.

### **Department of Transportation**

#### **Funding for FAA Programs**

***Airport Improvement Program:*** The FY18 omnibus spending bill contains an additional \$1 billion for airport infrastructure projects, which the FAA will be able to distribute to airports through AIP discretionary grants. The additional funding would be available through September 30, 2020.

The bill would require DOT to give priority consideration to projects at "(a) nonprimary airports that are classified as Regional, Local, or Basic airports and are not located within a Metropolitan or Micropolitan Statistical Area as defined by the Office of Management and Budget, or (b) primary airports that are classified as Small or Nonhub airports." The federal share for projects at nonprimary airports would be 100 percent.

The final spending bill also includes \$3.35 billion in regular AIP funding. Of that amount, \$111.9 million would go toward administration expenses, \$15 million for the Airport Cooperative Research Program, \$33.2 million for Airport Technology Research and \$10 million for the Small Community Air Service Development Program.

***Facilities and Equipment:*** The bill includes approximately \$3.3 billion for FAA facilities and equipment,

including almost \$1.3 billion for NextGen programs.

**FAA Operations:** The bill includes more than \$10.2 billion for FAA operations, approximately \$8.9 billion of which would come from the Airport and Airway Trust Fund.

**Research, Engineering, and Development:** The bill includes more than \$188.9 million for research, engineering, and development.

### **Airport Improvement Program**

**Local Match:** The bill maintains a provision that allows small airports to pay the lower 5 percent match for any unfinished phased projects that were underway prior to the passage of the FAA Modernization and Reform Act of 2012.

**Continued EDS Prohibition:** The final bill continues the prohibition against the use of AIP funds for "the replacement of baggage conveyor systems, reconfiguration of terminal baggage areas, or other airport improvements that are necessary to install bulk explosive detection systems."

### **Small Community Programs**

**Contract Tower Program:** The omnibus provides \$165 million in funding for the Contract Tower Program and Cost Share programs, which the bill notes will ensure that all 253 current towers will be funded along with any new tower that qualifies in FY18. That is \$3 million more than the Senate version of the bill and \$6 million more than the current funding level.

The final bill includes a provision that would block the FAA from failing to consider or approve an application to the Contract Tower and Contract Tower Cost-Share programs that was pending and eligible as of January 1, 2016. It also "establishes new requirements for the FAA to expedite entry into the program for towers that have met cost-benefit requirements."

**Essential Air Service:** The bill includes \$155 million in appropriated funds for the Essential Air Service Program - \$5 million more than proposed by the House version of the DOT bill. Coupled with an estimated \$119 million from overflight fees, the overall funding level for EAS would be approximately \$274 million in FY18.

The spending bill includes some programmatic changes for EAS including a waiver of the 15-passenger seat requirement. It also includes a provision to prevent DOT from entering into new a new contract for EAS communities that are located less than 40 miles from the nearest small hub airport unless the community comes up with a local cost share.

**Small Community Air Service Development:** The final bill includes \$10 million for the Small Community Air Service Development Program. The Senate version of the DOT spending bill included \$10 million for the program, and the House version of bill did not include funding. The omnibus also includes a AAEE-backed provision that would make current small hub and smaller airports eligible for grants.

### **Miscellaneous**

**Contract Weather Observers:** The bill would block the FAA from eliminating Contract Weather Observers at any airport.

**Airport Cooperative Research Program:** The final bill includes \$15 million for the Airport Cooperative Research Program - the same amount included in the House and Senate versions of the bill. Funding for the ACRP would continue to come from the AIP account.

**Cost Free Space:** The bill includes a AAEE-backed proposal that would continue to prohibit the FAA from requiring airports to provide space free of charge in airport-owned buildings.

**Remote Towers:** The bill includes \$5 million "to continue the ongoing remote tower project, including operations costs, and to deploy and pilot remote tower systems to at least two additional airports." The legislation also directs the FAA to begin the remote tower pilot initiative within 45 days after the bill is enacted into law.

### **FAA Extension**

The omnibus extends authorization for the Airport Improvement Program, other FAA programs, and aviation excise taxes for another six months through the end of the fiscal year. Congress needs to send another temporary extension to the President's desk before the end of the month to avoid a partial shutdown of the FAA.

Another six-month extension would allow the FAA to distribute remaining FY18 AIP funding. It will also give lawmakers more time to work on a comprehensive FAA reauthorization bill. That legislation has been held up over House proposal proposals to corporatize the air traffic control system and a Senate plan to address the pilot shortage.

Prospects for passing a multi-year FAA bill improved when House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) late last month announced his willingness to do away with his controversial ATC proposal. Lawmakers in both chambers are planning to resume consideration of the bill early this year.

### **Department of Homeland Security**

The FY18 omnibus agreement provides \$55.6 billion for the Department of Homeland Security (DHS), \$4.6 billion above the administration's request, to fund border security, transportation security, immigration enforcement, and other key DHS missions.

### **Funding for Transportation Security Administration (TSA)**

**Law Enforcement Officer Reimbursement:** The final FY18 appropriations bill includes \$45 million for TSA's LEO reimbursement program - the same amount included in the Senate's proposed FY18 DHS spending bill. Neither the House version of the bill nor the administration's FY18 budget request included funding for LEO reimbursements. AAAE and airports across the country successfully convinced lawmakers to keep the LEO funding intact.

**Exit Lanes:** The FY18 omnibus bill rejected the administration's proposal to eliminate federal funding for exit lane staffing and shift this burden to airports. Both the House and Senate versions of the DHS spending bill proposed to continue funding for exit lane security. In addition, the omnibus contains statutory language requiring TSA to continue monitoring exit points from sterile areas in locations they were responsible for as of December 1, 2013.

**Computed Tomography:** The FY18 omnibus includes \$64 million to accelerate the procurement and testing of computed tomography (CT) equipment as part of TSA's broader effort to recapitalize their aging screening equipment, enhance detection capabilities and performance, and more effectively counter emerging aviation security threats. Neither the House nor Senate bills included funding for CT deployments in FY18, however, TSA Administrator Pekoske has repeatedly testified that CT is the most impactful technology available today to address the evolving threat. Expediting deployment of CT will allow TSA to automate much of the threat detection function in carry-on baggage to meet current threats and overall checkpoint security effectiveness. In addition to the \$64 million provided in the omnibus, TSA has \$12.148 million in funding from 2017 to apply to CT procurement and testing for a total of \$76.148 million in 2018.

**Canines:** The FY18 omnibus includes \$151.764 million to fund 1,047 canine teams nationwide. When this new funding is combined with \$8.2 million in prior year funds, TSA has a total of \$159.964 million available for canines in 2018. The report directs that the prior year funding shall be used to continue efforts to establish a third party canine certification program for air cargo services. Additionally, the report directs TSA to submit a plan on ways to increase the canine program, both for passenger and cargo activities, and examine the feasibility of developing a dedicated breeding program.

**EDS Reimbursements:** The final appropriations bill includes \$50 million to begin to reimburse airports that incurred costs for partial or completed in-line baggage screening systems prior to August 3, 2007. TSA is also directed to develop a plan for how it will reimburse the balance of these claims in future

budget requests.

**Visible Intermodal Prevention Response (VIPR) Teams:** The FY18 omnibus includes \$43 million to maintain 31 VIPR teams, rejecting the administration's request to reduce the number of teams to eight in 2018.

**Insider Threats:** TSA is directed to continue efforts with its airport partners to strengthen programs to counter insider threats, such as more rigorous screening of employees prior to their accessing secure areas. Within 45 days, TSA must brief the Appropriations Committee on these efforts, the feasibility of integrating additional qualified screening technology into the employee screening process, and whether additional resources could enhance the process.

**Perimeter Intrusion Detection and Deterrence Technologies:** TSA is directed to develop a multi-year plan to analyze and test perimeter intrusion detection and deterrence technologies in partnership with airports, using a sampling of airports of different sizes and risk profiles, and different technologies. Up to \$10 million is provided to begin implanting this plan.

**Passenger Security Fees:** The FY18 omnibus does not raise the passenger security fee by \$1 per one-way trip as requested by the administration.

### **Funding for Customs and Border Protection (CBP)**

**CBP Officers:** The final FY18 appropriations bill adds 328 CBP officers above the administration's request for airports and other ports of entry. This level reflects the number of officers CBP believes it can hire in 2018. Report language is included that requires CBP to evaluate commercial automated scheduling and timekeeping solutions that could return up to 158 officers to front line positions if CBP determines the benefit of these tools outweigh their costs.

**Overtime:** The bill caps overtime at \$45,000 per person - the same amount included in the House and Senate versions of the bill and \$10,000 higher than the administration's request.

**Port of Entry Designation:** The final FY18 appropriations bill does not include statutory language proposed by the House requiring CBP to survey user fee funded airports and designate any that meet their requirements as a Federal port of entry. In lieu of statutory language, the report urges CBP to give priority consideration to any application for port of entry status submitted by a commercial airport if such airport served at least 90,000 international passengers the previous year, excluding those arriving from preclearance locations.

**Biometric Exit:** The omnibus bill does not include any appropriated funding to implement biometric exit programs at airports nationwide. This program will continue to be funded through fees, estimated at

\$90.55 million in FY18, which were authorized as part of the 9/11 Victim's Compensation Fund contained in the FY16 omnibus. The bill includes language requiring the Department to submit reports on biometric exit implementation.

**Brand USA:** The omnibus rejects the administration's proposal to redirect fee revenue that currently supports Brand USA to CBP travel and trade activities.

### **American Association of Airport Executives**

The Barclay Building | 601 Madison Street | Alexandria, VA 22314

[P] 703.824.0504

[F] 703.820.1395

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