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H.R.915

FAA Reauthorization Act of 2009 (Referred to Senate Committee after being Received from House)

Subtitle C--Fees for FAA Services

SEC. 121. UPDATE ON OVERFLIGHTS.

(a) Establishment and Adjustment of Fees- Section 45301(b) is amended to read as follows:

^ (b) Establishment and Adjustment of Fees-

^ (1) IN GENERAL- In establishing and adjusting fees under subsection (a), the Administrator shall ensure that the fees are reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training, and emergency services which are available to facilitate safe transportation over the United States and the costs of other services provided by the Administrator, or by programs financed by the Administrator, to flights that neither take off nor land in the United States. The determination of such costs by the Administrator, and the allocation of such costs by the Administrator to services provided, are not subject to judicial review.

^ (2) ADJUSTMENT OF FEES- The Administrator shall adjust the overflight fees established by subsection (a)(1) by expedited rulemaking and begin collections under the adjusted fees by May 1, 2010. In developing the adjusted overflight fees, the Administrator may seek and consider the recommendations offered by an aviation rulemaking committee for overflight fees that are provided to the Administrator by September 1, 2009, and are intended to ensure that overflight fees are reasonably related to the Administrator's costs of providing air traffic control and related services to overflights.

^ (3) AIRCRAFT ALTITUDE- Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

ˆ (4) COSTS DEFINED- In this subsection, the term `costs' includes those costs associated with the operation, maintenance, leasing costs, and overhead expenses of the services provided and the facilities and equipment used in such services, including the projected costs for the period during which the services will be provided.

ˆ (5) PUBLICATION; COMMENT- The Administrator shall publish in the Federal Register any fee schedule under this section, including any adjusted overflight fee schedule, and the associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.'

(b) Adjustments- Section 45301 is amended by adding at the end the following:

ˆ (e) Adjustments- In addition to adjustments under subsection (b), the Administrator may periodically adjust the fees established under this section.'

SEC. 122. REGISTRATION FEES.

(a) In General- Chapter 453 is amended by adding at the end the following:

ˆ Sec. 45305. Registration, certification, and related fees

ˆ (a) General Authority and Fees- Subject to subsection (b), the Administrator of the Federal Aviation Administration shall establish the following fees for services and activities of the Administration:

- ˆ (1) \$130 for registering an aircraft.
- ˆ (2) \$45 for replacing an aircraft registration.
- ˆ (3) \$130 for issuing an original dealer's aircraft certificate.
- ˆ (4) \$105 for issuing an aircraft certificate (other than an original dealer's aircraft certificate).
- ˆ (5) \$80 for issuing a special registration number.
- ˆ (6) \$50 for issuing a renewal of a special registration number.
- ˆ (7) \$130 for recording a security interest in an aircraft or aircraft part.
- ˆ (8) \$50 for issuing an airman certificate.
- ˆ (9) \$25 for issuing a replacement airman certificate.
- ˆ (10) \$42 for issuing an airman medical certificate.
- ˆ (11) \$100 for providing a legal opinion pertaining to aircraft registration or recordation.

ˆ (b) Limitation on Collection- No fee may be collected under this section unless the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

^ (c) Fees Credited as Offsetting Collections-

^ (1) IN GENERAL- Notwithstanding section 3302 of title 31, any fee authorized to be collected under this section shall--

^ (A) be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

^ (B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

^ (C) remain available until expended.

^ (2) CONTINUING APPROPRIATIONS- The Administrator may continue to assess, collect, and spend fees established under this section during any period in which the funding for the Federal Aviation Administration is provided under an Act providing continuing appropriations in lieu of the Administration's regular appropriations.

^ (3) ADJUSTMENTS- The Administrator shall periodically adjust the fees established by subsection (a) when cost data from the cost accounting system developed pursuant to section 45303(e) reveal that the cost of providing the service is higher or lower than the cost data that were used to establish the fee then in effect.'

(b) Clerical Amendment- The analysis for chapter 453 is amended by adding at the end the following:

^ 45305. Registration, certification, and related fees.'

(c) Fees Involving Aircraft Not Providing Air Transportation- Section 45302(e) is amended--

(1) by striking 'A fee' and inserting the following:

^ (1) IN GENERAL- A fee'; and

(2) by adding at the end the following:

^ (2) EFFECT OF IMPOSITION OF OTHER FEES- A fee may not be imposed for a service or activity under this section during any period in which a fee for the same service or activity is imposed under section 45305.'

Subtitle D--AIP Modifications

SEC. 131. AMENDMENTS TO AIP DEFINITIONS.

(a) Airport Development- Section 47102(3) is amended--

(1) in subparagraph (B)(iv) by striking '20' and inserting '9'; and

(2) by adding at the end the following:

` (M) construction of mobile refueler parking within a fuel farm at a nonprimary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.

` (N) terminal development under section 47119(a).

` (O) acquiring and installing facilities and equipment to provide air conditioning, heating, or electric power from terminal-based, non-exclusive use facilities to aircraft parked at a public use airport for the purpose of reducing energy use or harmful emissions as compared to the provision of such air conditioning, heating, or electric power from aircraft-based systems.'

(b) Airport Planning- Section 47102(5) is amended by inserting before the period at the end the following: `, developing an environmental management system'.

(c) General Aviation Airport- Section 47102 is amended--

(1) by redesignating paragraphs (23) through (25) as paragraphs (25) through (27), respectively;

(2) by redesignating paragraphs (8) through (22) as paragraphs (9) through (23), respectively; and

(3) by inserting after paragraph (7) the following:

` (8) `general aviation airport' means a public airport that is located in a State and that, as determined by the Secretary--

` (A) does not have scheduled service; or

` (B) has scheduled service with less than 2,500 passenger boardings each year.'

(d) Revenue Producing Aeronautical Support Facilities- Section 47102 is amended by inserting after paragraph (23) (as redesignated by subsection (c)(2) of this section) the following:

` (24) `revenue producing aeronautical support facilities' means fuel farms, hangar buildings, self-service credit card aeronautical fueling systems, airplane wash racks, major rehabilitation of a hangar owned by a sponsor, or other aeronautical support facilities that the Secretary determines will increase the revenue producing ability of the airport.'

(e) Terminal Development- Section 47102 is further amended by adding at the end the following:

` (28) `terminal development' means--

` (A) development of--

` (i) an airport passenger terminal building, including terminal gates;

^ (ii) access roads servicing exclusively airport traffic that leads directly to or from an airport passenger terminal building; and

^ (iii) walkways that lead directly to or from an airport passenger terminal building; and

^ (B) the cost of a vehicle described in section 47119(a)(1)(B).'

SEC. 132. SOLID WASTE RECYCLING PLANS.

(a) Airport Planning- Section 47102(5) (as amended by section 131(b) of this Act) is amended by inserting before the period at the end the following: ^, and planning to minimize the generation of, and to recycle, airport solid waste in a manner that is consistent with applicable State and local recycling laws'.

(b) Master Plan- Section 47106(a) is amended--

(1) by striking ^ and' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ^; and'; and

(3) by adding at the end the following:

^ (6) in any case in which the project is for an airport that has an airport master plan, the master plan addresses the feasibility of solid waste recycling at the airport and minimizing the generation of solid waste at the airport.'

SEC. 133. AMENDMENTS TO GRANT ASSURANCES.

(a) General Written Assurances- Section 47107(a)(16)(D)(ii) is amended by inserting before the semicolon at the end the following: ^, except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d)'

(b) Written Assurances on Acquiring Land-

(1) USE OF PROCEEDS- Section 47107(c)(2)(A)(iii) is amended by striking ^ paid to the Secretary' and all that follows before the semicolon and inserting ^ reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)'

(2) ELIGIBLE PROJECTS- Section 47107(c) is amended by adding at the end the following:

^ (4) PRIORITIES FOR REINVESTMENT- In approving the reinvestment or transfer of proceeds under subsection (c)(2)(A)(iii), the Secretary shall give preference, in descending order, to the following actions:

^ (A) Reinvestment in an approved noise compatibility project.

^ (B) Reinvestment in an approved project that is eligible for funding under section 47117(e).

 (C) Reinvestment in an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

 (D) Transfer to a sponsor of another public airport to be reinvested in an approved noise compatibility project at such airport.

 (E) Payment to the Secretary for deposit in the Airport and Airway Trust Fund.'

(c) Clerical Amendment- Section 47107(c)(2)(B)(iii) is amended by striking 'the Fund' and inserting 'the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502)'.

SEC. 134. GOVERNMENT SHARE OF PROJECT COSTS.

Section 47109 is amended--

(1) in subsection (a) by striking 'provided in subsection (b) or subsection (c) of this section' and inserting 'otherwise specifically provided in this section'; and

(2) by adding at the end the following:

 (e) Special Rule for Transition From Small Hub to Medium Hub Status- If the status of a small hub airport changes to a medium hub airport, the Government's share of allowable project costs for the airport may not exceed 90 percent for the first 2 fiscal years following such change in hub status.

 (f) Special Rule for Economically Depressed Communities- The Government's share of allowable project costs shall be 95 percent for a project at an airport that--

 (1) is receiving subsidized air service under subchapter II of chapter 417; and

 (2) is located in an area that meets one or more of the criteria established in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)), as determined by the Secretary of Commerce.'

SEC. 135. AMENDMENTS TO ALLOWABLE COSTS.

(a) Allowable Project Costs- Section 47110(b)(2)(D) is amended to read as follows:

 (D) if the cost is for airport development and is incurred before execution of the grant agreement, but in the same fiscal year as execution of the grant agreement, and if--

 (i) the cost was incurred before execution of the grant agreement due to the short construction season in the vicinity of the airport;

 (ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement;

^ (iii) the sponsor notifies the Secretary before authorizing work to commence on the project; and

^ (iv) the sponsor's decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds;'.

(b) Relocation of Airport-Owned Facilities- Section 47110(d) is amended to read as follows:

^ (d) Relocation of Airport-Owned Facilities- The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if--

^ (1) the Government's share of such costs will be paid with funds apportioned to the airport sponsor under section 47114(c)(1) or 47114(d);

^ (2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary's design standards; and

^ (3) the Secretary determines that the change is beyond the control of the airport sponsor.'.

(c) Nonprimary Airports- Section 47110(h) is amended--

(1) by inserting ^ construction of' before ^ revenue producing'; and

(2) by striking ^ , including fuel farms and hangars,'.

SEC. 136. PREFERENCE FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY DISABLED VETERANS.

Section 47112(c) is amended by adding at the end the following:

^ (3) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that a preference be given to the use of small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans.'.

SEC. 137. AIRPORT DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

(a) Purpose- It is the purpose of the airport disadvantaged business program to ensure that minority- and women-owned businesses have a full and fair opportunity to compete in federally assisted airport contracts and concessions and to ensure that the Federal Government does not subsidize discrimination in private or locally funded airport-related industries.

(b) Findings- Congress finds the following:

(1) While significant progress has occurred due to the enactment of the airport disadvantaged business enterprise program (49 U.S.C. 47107(e) and 47113), discrimination continues to be a significant barrier for minority- and

women-owned businesses seeking to do business in airport-related markets. This continuing discrimination merits the continuation of the airport disadvantaged business enterprise program.

(2) Discrimination poses serious barriers to the full participation in airport-related businesses of women business owners and minority business owners, including African Americans, Hispanic Americans, Asian Americans, and Native Americans.

(3) Discrimination impacts minority and women business owners in every geographic region of the United States and in every airport-related industry.

(4) Discrimination has impacted many aspects of airport-related business, including--

- (A) the availability of venture capital and credit;
- (B) the availability of bonding and insurance;
- (C) the ability to obtain licensing and certification;
- (D) public and private bidding and quoting procedures;
- (E) the pricing of supplies and services;
- (F) business training, education, and apprenticeship programs; and
- (G) professional support organizations and informal networks through which business opportunities are often established.

(5) Congress has received voluminous evidence of discrimination against minority and women business owners in airport-related industries, including--

- (A) statistical analyses demonstrating significant disparities in the utilization of minority- and women-owned businesses in federally and locally funded airport related contracting;
- (B) statistical analyses of private sector disparities in business success by minority- and women-owned businesses in airport related industries;
- (C) research compiling anecdotal reports of discrimination by individual minority and women business owners;
- (D) individual reports of discrimination by minority and women business owners and the organizations and individuals who represent minority and women business owners;
- (E) analyses demonstrating significant reductions in the participation of minority and women businesses in jurisdictions that have reduced or eliminated their minority- and women-owned business programs;
- (F) statistical analyses showing significant disparities in the credit available to minority- and women-owned businesses;

(G) research and statistical analyses demonstrating how discrimination negatively impacts firm formation, growth, and success;

(H) experience of airports and other localities demonstrating that race- and gender-neutral efforts alone are insufficient to remedy discrimination; and

(I) other qualitative and quantitative evidence of discrimination against minority- and women-owned businesses in airport-related industries.

(6) All of this evidence provides a strong basis for the continuation of the airport disadvantaged business enterprise program and the airport concessions disadvantaged business enterprise program.

(7) Congress has received and reviewed recent comprehensive and compelling evidence of discrimination from many different sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits.

(c) Disadvantaged Business Enterprise Personal Net Worth Cap; Bonding Requirements- Section 47113 is amended by adding at the end the following:

^ (e) Personal Net Worth Cap-

^ (1) REGULATIONS- Not later than 180 days after the date of enactment of this subsection, the Secretary shall issue final regulations to adjust the personal net worth cap used in determining whether an individual is economically disadvantaged for purposes of qualifying under the definition contained in subsection (a)(2) and under section 47107(e).

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