

Public Law 103-260
103d Congress

An Act

May 26, 1994
[S. 2024]

Airport
Improvement
Program
Temporary
Extension Act of
1994.
49 USC app.
2201 note.

To provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Airport Improvement Program Temporary Extension Act of 1994”.

**TITLE I—AIRPORT IMPROVEMENT
PROGRAM**

SEC. 101. AIRPORT IMPROVEMENT PROGRAM AUTHORIZATION.

(a) **AUTHORIZATION.**—The second sentence of section 505(a) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(a)) is amended—

(1) by striking “and” after “1992,”; and

(2) by inserting “, and \$15,413,157,000 for fiscal years ending before October 1, 1994” before the period at the end.

(b) **OBLIGATIONAL AUTHORITY.**—Section 505(b)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(b)(1)) is amended by striking “September 30, 1993” and inserting “June 30, 1994”.

SEC. 102. APPORTIONMENT OF FUNDS.

Section 507(b)(3)(A) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2206(b)(3)(A)) is amended—

(1) by striking “or reducing the amount authorized or” and inserting “the amount”;

(2) by inserting “to less than \$1,900,000,000” after “to be obligated”; and

(3) by striking “limited or reduced”.

SEC. 103. MINIMUM AMOUNT FOR PRIMARY AIRPORTS.

Section 507(b)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2206(b)(1)) is amended by striking “\$400,000” and inserting “\$500,000”.

SEC. 104. DISCRETIONARY FUND.

(a) **MINIMUM AMOUNT TO BE CREDITED.**—Section 507(c) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C.

2206(c) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE.—(A) In any fiscal year not less than \$325,000,000 of the amount made available under section 505(a) shall be credited to the discretionary fund established by paragraph (1), and such \$325,000,000 shall be exclusive of amounts that have been apportioned in a prior year under this section and which remain available for obligation.

"(B) In any fiscal year in which the amount credited to the discretionary fund pursuant to paragraph (1) is less than \$325,000,000, the total amount calculated under subparagraph (C) of this paragraph shall be reduced by an amount which, when credited to the discretionary fund, will, together with the amount credited pursuant to paragraph (1), equal \$325,000,000.

"(C) The total amount, for any fiscal year, that is subject to reduction pursuant to subparagraph (B) shall be the sum of—

- "(i) the amount determined under subsection (a)(1);
- "(ii) the amount determined under subsection (a)(2);
- "(iii) the amount determined under subsection (a)(3);
- "(iv) the amount determined under section 508(d)(1);
- "(v) the amount determined under section 508(d)(2);
- "(vi) the amount determined under section 508(d)(3);
- "(vii) the amount determined under section 508(d)(4);

and

- "(viii) the amount determined under section 508(d)(5).

"(D) To accomplish a reduction pursuant to subparagraph (B), each of the amounts described in subparagraphs (C)(i) through (C)(viii), respectively, shall be reduced by an equal percentage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1994.

49 USC app.
2206 note.

SEC. 105. USE OF APPORTIONED AND DISCRETIONARY FUNDS.

Section 508(d) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2207(d)) is amended—

- (1) in paragraph (1), by striking "10" and inserting "5";
- (2) in paragraph (3), by striking "2.5" wherever it appears and inserting "1.5"; and
- (3) in paragraph (4), by striking "1/2" and inserting "3/4".

SEC. 106. REIMBURSEMENT FOR PAST EXPENDITURES.

Section 513(a)(2) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2212(a)(2)) is amended—

- (1) by striking "or" at the end of subparagraph (A);
- (2) by inserting "or" after the semicolon at the end of subparagraph (B); and
- (3) by inserting after subparagraph (B) the following:

"(C)(i) it was incurred—

"(I) during fiscal year 1994;

"(II) before execution of a grant agreement with respect to the project but in accordance with an airport layout plan approved by the Secretary and in accordance with all applicable statutory and administrative requirements that would have been applicable to the project if the grant agreement had been executed; and

“(III) for work related to a project for which a grant agreement was previously executed during fiscal year 1994; and

“(ii) its Federal share is only paid with sums apportioned under sections 507(a)(1) and 507(a)(2).”.

SEC. 107. TERMINAL DEVELOPMENT.

Section 513(b)(2) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2212(b)(2)) is amended—

(1) in the second sentence—

(A) by inserting after “may be used” the following: “, subject to the approval of the Secretary, (A)”; and

(B) by striking the period at the end and inserting the following: “, and (B) by the sponsor of a reliever airport for the types of project costs allowable under paragraph (1) of this subsection, including project costs allowable for a commercial service airport which annually has .05 percent or less of the total enplanements in the United States.”; and

(2) by adding at the end the following: “All or any portion of the sums to be distributed at the discretion of the Secretary under sections 507(c) and 507(d) for any fiscal year may be distributed for use by primary airports each of which annually has .05 percent or less of the total enplanements in the United States for project costs allowable under paragraph (1) of this subsection.”.

SEC. 108. EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.

26 USC 9502.

Section 9502(d)(1)(A) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by striking “(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)” and inserting “or the Airport Improvement Program Temporary Extension Act of 1994 (as such Acts were in effect on the date of the enactment of the Airport Improvement Program Temporary Extension Act of 1994)”.

SEC. 109. UPWARD ADJUSTMENTS.

(a) IN GENERAL.—The second sentence of section 505(b)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(b)(1)) is further amended by—

(1) inserting “(A)” before “Apportioned”; and

(2) inserting before the period at the end “; and (B) funds which have been recovered by the United States from grants made under this title if such funds are obligated only for increases under sections 512(b)(2) and 512(b)(3) of this title in the maximum obligation of the United States for any other grant made under this title”.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

49 USC app.
2204 note.

TITLE II—AIRPORT-AIR CARRIER DISPUTES REGARDING AIRPORT FEES

SEC. 201. EMERGENCY AUTHORITY TO FREEZE CERTAIN AIRPORT FEES.

(a) COMPLAINT BY AIR CARRIER.—

(1) FILING.—An air carrier may file prior to June 30, 1994, with the Secretary a written complaint alleging that any increased fee imposed upon such air carrier by the owner or operator of an airport is not reasonable. The air carrier shall simultaneously file with the Secretary proof that a copy of the complaint has been served on the owner or operator of the airport.

(2) OPPORTUNITY TO RESPOND.—Before issuing an order under subsection (b), the Secretary shall provide the owner or operator of the airport an opportunity to respond to the filed complaint.

(3) FRIVOLOUS COMPLAINT.—If the Secretary determines that a complaint is frivolous, the Secretary may refuse to accept the complaint for filing.

(b) ORDER BY THE SECRETARY.—

(1) IN GENERAL.—Except as provided by paragraph (2), the Secretary shall issue, within 7 days after the filing of a complaint in accordance with subsection (a), an order prohibiting the owner or operator of the airport from collecting the increased portion of the fee that is the subject of the complaint, unless the Secretary makes a preliminary determination that the increased fee is reasonable. Subject to subsection (d), the order shall cease to be effective on June 30, 1994.

(2) LIMITATION.—The Secretary shall not issue an order under this subsection prohibiting the collection of any portion of a fee for which the Secretary's informal mediation assistance was requested on March 21, 1994.

(c) OPPORTUNITY TO COMMENT AND FURNISH RELATED MATERIAL.—Within a period prescribed by the Secretary, the owner or operator of the airport and any affected air carrier may submit comments to the Secretary on a complaint filed under subsection (a) and furnish to the Secretary any related documents or other material.

(d) ACTION ON COMPLAINT.—Based on comments and material provided under subsection (c), the Secretary may take appropriate action on the complaint, including termination or other modification of any order issued under subsection (b).

(e) APPLICABILITY.—This section does not apply to a fee imposed pursuant to a written agreement binding on air carriers using the facilities of an airport.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect any existing written agreement between an air carrier and the owner or operator of an airport.

SEC. 202. DEFINITIONS.

For purposes of this title—

(1) the term "fee" means any rate, rental charge, landing fee, or other service charge for the use of airport facilities; and

(2) the term "Secretary" means the Secretary of Transportation.

TITLE III—REFORM OF AIR TRAFFIC CONTROL SYSTEM

SEC. 301. AIR TRAFFIC CONTROL SYSTEM.

(a) **STUDY.**—The Secretary of Transportation shall undertake a study of management, regulatory, and legislative reforms which would enable the air traffic control system of the Federal Aviation Administration to provide better services to users and reduce the costs of providing services, without reducing the safety of the system or the availability of the system to all categories of users and without changing the basic organizational structure under which the system is part of the Federal Aviation Administration.

(b) **COMPONENTS.**—The study to be conducted under subsection (a) shall include the following:

(1) Evaluation of reforms which would streamline procurement, enhance the ability to attract and retain adequate staff at hard-to-staff facilities, simplify the personnel process, provide funding stability, ensure continuity of leadership, and reduce the incidence of unnecessarily detailed management oversight.

(2) Identification of any existing laws or regulations governing procurement or personnel which are having an adverse effect on the operation or modernization of the air traffic control system.

(3) Evaluation of a range of possible reforms and the advantages and disadvantages of each possible reform.

(4) Comparison of the advantages and disadvantages of each possible reform with the comparable advantages and disadvantages to be achieved under any proposal of the Secretary of Transportation to create a separate Federal corporate entity to operate the air traffic control system.

Reports.

(c) **DEADLINE.**—The results of the study to be conducted under subsection (a) shall be contained in a report which shall be completed by the Secretary of Transportation on or before the date which is 180 days after the date of the enactment of this Act, or the date on which the Secretary submits to Congress proposed legislation to create a separate corporate entity to operate the air traffic control system, whichever date occurs first.

(d) **TRANSMITTAL.**—On the date of completion of the report under subsection (c), the Secretary of Transportation shall transmit copies of the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. GRANDFATHER PROVISION FOR FAA DEMONSTRATION PROJECT.

(a) **IN GENERAL.**—Notwithstanding the termination of the personnel demonstration project for certain Federal Aviation Administration employees on June 17, 1994, pursuant to section

Wages.
49 USC app.
1348 note.

4703 of title 5, United States Code, the Federal Aviation Administration, subject to subsection (d), shall continue to pay quarterly retention allowance payments in accordance with subsection (b) to those employees who are entitled to quarterly retention allowance payments under the demonstration project as of June 16, 1994.

(b) COMPUTATION RULES.—

(1) IN GENERAL.—The amount of each quarterly retention allowance payment to which an employee is entitled under subsection (a) shall be the amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994, reduced by that portion of the amount of any increase in the employee's annual rate of basic pay subsequent to June 17, 1994, from any source, which is allocable to the quarter for which the allowance is to be paid (or, if applicable, to that portion of the quarter for which the allowance is to be paid). For purposes of the preceding sentence, the increase in an employee's annual rate of basic pay includes—

(A) any increase under section 5303 of title 5, United States Code;

(B) any increase in locality-based comparability payments under section 5304 of such title 5 (except if, or to the extent that, such increase is offset by a reduction of an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5304 note));

(C) any establishment or increase in a special rate of pay under section 5305 of such title 5;

(D) any increase in basic pay pursuant to a promotion under section 5334 of such title 5;

(E) any periodic step-increase under section 5335 of such title 5;

(F) any additional step-increase under section 5336 of such title 5; and

(G) any other increase in annual rate of basic pay under any other provision of law.

(2) SECTION RULE.—In the case of an employee on leave without pay or other similar status for any part of the quarter prior to June 17, 1994, based on which the amount of the allowance payments for such employee under subsection (a) are computed, the "amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994" shall, for purposes of paragraph (1), be deemed to be the amount of the allowance which would have been payable to such employee for such quarter under such project had such employee been in pay status throughout such quarter.

(c) TERMINATION.—An employee's entitlement to quarterly retention allowance payments under this section shall cease when—

(1) the amount of such allowance is reduced to zero under subsection (b), or

(2) the employee separates or moves to a position in which the employee would not, prior to June 17, 1994, have been entitled to receive an allowance under the demonstration project,

whichever is earlier.

(d) SPECIAL PAYMENT RULE.—The Administrator of the Federal Aviation Administration may make payment for the costs incurred under the program established by subsection (a) for the period between June 18, 1994, and September 30, 1994, following the end of the first full pay period that begins on or after October 1, 1994, subject to appropriations made available in fiscal year 1995.

(e) STUDY OF RECRUITMENT AND RETENTION INCENTIVES.—The Administrator of the Federal Aviation Administration shall conduct a study of impediments that may exist to achieving appropriate air traffic controller staffing levels at hard-to-staff facilities. In conducting such study, the Administrator shall identify and evaluate the extent to which special incentives, of a financial or non-financial nature, could be useful in recruiting or retaining air traffic controllers at such facilities. The Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 180 days after the date of enactment of this Act a report on (1) the results of such study, (2) planned administrative actions, and (3) any recommended legislation.

Reports.

Approved May 26, 1994.

LEGISLATIVE HISTORY—S. 2024:

CONGRESSIONAL RECORD, Vol. 140 (1994):

Apr. 19, considered and passed Senate.

May 3, considered and passed House, amended.

May 12, Senate concurred in House amendment with an amendment.

May 17, House concurred in Senate amendment.