

Ohio House Transportation and Public Safety Committee  
Testimony of Ohio Aviation Association  
Stacey Heaton, Executive Director  
in Support of HB490: Revise laws regarding navigable airspace  
Hearing Date: February 8, 2022

Chair Baldrige, Vice-Chair McClain, Ranking Member Sheehy, and all committee members, thank you for the opportunity to provide testimony on this important Bill. My name is Stacey Heaton and I serve as the Executive Director for the Ohio Aviation Association. My association represents over seventy-five airports in the State of Ohio and numerous businesses that use and rely on airports.

I would like to begin my testimony by clearly addressing concerns that we have heard over the last four+ years while assisting ODOT in cleaning-up the Ohio Revised Code. This Bill is **not**:

- A power grab by the State's administration
- An attempt to go after existing obstructions in Ohio
- Addressing drones or advanced air mobility operations in Ohio
- A ploy at deterring any specific industry from operating in Ohio
- Requiring airport zoning boards/commissions to be created

In the simplest terms, while trying not to repeat the Legislative Service Commission's (LSC) Bill Analysis, I would like to clearly address what this Bill **is**:

- Cleaning-up antiquated language
- Streamlining a process
- Protecting people and property on the ground and in the air
- Ensuring local decision makers understand a very technical issue
- Protecting State and Federal investments in your communities

If one were to evaluate the airspace protection program from a public program policy view, I think it would be determined that it works. Over a recent four-year period, ODOT reviewed over 12,000 applications and only twenty-one were denied. 99.825% of applicants were issued permits or advised that a permit was not needed. This indicates that the combined efforts of the FAA and State's program is working by bringing together permit applicants and airport sponsors to understand a complex issue, resolve potential conflicts, and allow businesses to thrive but in a manner that is protecting people, property, and community assets.

Next, I would like to answer some questions you may have in the back of your mind:

**Why isn't the FAA's review process sufficient?**

Proposed construction can be an obstruction but not a hazard. This happens if an airport's operations do not hit a high enough number to be "significant" and "substantial" according to the FAA's criteria. I suspect each of you are aware of an important business that uses aircraft in the State. Every one of those operations is important to that community (or our state) therefore obstructions evaluations should not be left solely to the FAA.

The FAA reviews impacts to airport plans that are up to date and on file with the FAA. Not all airports have airport layout plans, and some may not be current. For example, a community may be working closely to attract a business that favors using a local airport yet cannot share the information until the deal is done. That potential community business might require a certain type of runway approach or certain length of

runway and just one obstruction can make that airport unusable thereby negatively impacting an entire community.

Next, any airline that operates must have a calculation for operating during a “One Engine Inoperative” (OEI) scenario. Obviously, if an aircraft is operating with one engine inoperable, its climb rate is not as steep as normal, and obstructions become more important. An obstruction in the OEI surface will cause an airline to reduce allowable passengers and/or fuel and might not be able to serve desired destinations. This is a specific impact any airport wants to avoid but the FAA does not take OEI surfaces into account when reviewing obstructions because it is economic related. Again, FAA does not consider economic impacts. It is strictly a local issue. For these reasons, the FAA’s review is not sufficient.

### **Is there opposition to this Bill?**

We are aware of one company that has voiced opposition. OAA, along with ODOT Aviation, Aircraft Owners and Pilots Association (AOPA), a pilot/instructor, and an airport, met with the sole known opposition during Interested Party meetings. We learned that opposition was concerned that a single person could cause a denial with no record simply because that person is against their industry. To address that, the Bill now requires a written response from an airport. Opposition was concerned about ODOT having the final say. Under current law and in this Bill, there is an appeals process. Opposition was concerned of unknown timelines in the review process. To address that, the Bill now has deadlines. Opposition has a business model that prevents them from being able to redesign their structures to varying heights to avoid airspace penetration. Unfortunately, there is nothing we can do that addresses their business model limitations. We have made every effort to address issues for the opposition.

### **Why is this Bill so important to our public airports?**

Airport management is a tricky industry. Airports provide a public service. Airports are a great community asset and business attractant. The FAA requires airports to remain open and operational unless specifically allowed to close. Through grant assurances, airports are bound to abide by the highly regulated world of the FAA. To balance all these interests, some of which can be competing, on a shoestring budget, many airports have few employees and often have a commission or airport board that is unfamiliar with all the grant assurances and airspace issues. Our airports need their partner, ODOT Aviation, to help them protect the airspace and stay square with grant assurances. Once airspace is lost, it must assuredly not going to be gained back (you should ask yourself what that means to the future of air mobility<sup>1</sup>). For safety, which is paramount, the airport environment must be protected and thus this Bill is important to our public airports.

In closing, the Ohio Aviation Association is supportive of this legislation to ensure that ODOT’s review parallels that of the FAA. We have one requested amendment, however: the timeline for a permit response needs to be a minimum of 60 days after the FAA issues a final determination. As part of our attempt to appease opposition, the Bill is requiring airports to respond in writing. Many of our airports must bring this action before a commission or authority and many meet only monthly or less frequently.

Thank you for your time and I can take any questions you may have for me.

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<sup>1</sup> While this testimony does not address drones or advanced air mobility, it is recommended that each legislator read the 2021 NASA report on the future of regional air mobility found here: <https://sacd.larc.nasa.gov/ram/>