



**Ohio House Aviation and Aerospace Committee  
Proponent Testimony for HB 185 – The Airspace Protection Act  
Tony Fiore, Executive Director, Ohio Aviation Association  
April 23, 2024**

Chair Holmes, Vice Chair Willis, Ranking Member Baker, and all committee members, thank you for the opportunity to provide our written testimony. My name is Tony Fiore and I serve as the Executive Director for the Ohio Aviation Association. My association represents the 104 public-owned, public-use 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 7 years while assisting ODOT in cleaning up the Ohio Revised Code.

**HB 185** 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

The bill’s joint sponsors, Rep. Fowler-Arthur, and Rep. Callender, as well as the Legislative Service Commission’s (LSC) Bill Analysis did a great job explaining why this bill is necessary. In summary, this bill:

- 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 was 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.

**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 a few trade associations representing wind turbine companies and wireless towers that have voiced opposition. But, as Rep. Fowler-Arthur noted in her testimony, these organizations have not provided any substantive changes other than to do nothing at all. I will also bring to your attention that since we began the process several years ago HB 185 contains many provisions originally requested during interested party meetings. OAA, along with ODOT’s Office of Aviation, the Aircraft Owners, and Pilots Association (AOPA), a pilot/instructor, and an airport worked diligently to address as many concerns as possible. For example, 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, HB 185 now requires a written response from the 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, HB 185 now has deadlines. In addition, there are several examples when a structure, such as a cell tower, would have been an issue, but once identified and discussed the tower was lowered to not invade into an airport’s airspace. There is at least one company opposed to the bill that 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 will not be gained back. This is an

even bigger problem when we want to discuss the future of air mobility as Rep. Willis' bills are beginning to do. For safety, which is paramount, the airport environment must be protected and thus this Bill is important to our public airports.

To help illustrate the need for HB 185 I've provided each member with an airport in their district (or one close by) where tall structure issues will continue to be unresolved unless HB 185 becomes law. The first page shows the 5 imaginary surfaces ODOT's permitting process is currently limited to while the remaining diagrams show areas that need to be covered as part of the airport's obligations under Part 77.

- Rep. Adam Holmes (HD 97) – Zanesville Municipal Airport (ZZV)
- Rep. Bernard Willis (HD 74) – Springfield- Beckley Airport (SGH)
- Rep. Rachel Baker (HD 27) – Cincinnati West Airport (IG7)
- Rep. Richard Dell'Aquila (HD 15) – Medina Municipal Airport (1G5)
- Rep. Sarah Fowler-Arthur (HD 99) – Northeast Ohio Regional Airport (HZY)
- Rep. Brian Lampton (HD 70) – Dayton Greene County Airport (GDK)
- Rep. Adam Mathews (HD 56) – Warren County Airport (I68)
- Rep. Adam Miller (HD 6) – Bolton Field (TZR)
- Rep. Phil Plummer (HD 39) – James M. Cox Dayton International Airport (DAY)
- Rep. Dick Stein (HD 54) – Lorain County Regional Airport (LPR)
- Rep. Casey Weinstein (HD 34) – Kent State University Airport (1G3)

In closing, the Ohio Aviation Association is supportive of this legislation to ensure that ODOT's review parallels that of the FAA. As part of our attempt to appease opposition, HB 185 requires 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. In short, the process and timeframes laid out in the bill are fair to both ODOT and local governments as well as those wanting to erect tall structures in the future.

Thank you for your time. I'm happy to try and answer any questions you may have for me.