



FAA REAUTHORIZATION: MODERNIZE THE NATIONAL AIRSPACE SYSTEM AND PROTECT AVIATION WORKERS

Our nation's aviation system is at a crossroads. Mergers, bankruptcies and so-called reorganizations have plagued the industry with workers and passengers too often bearing the brunt of reckless cost cutting, service and job cuts and short-sighted decisions by management. The aviation workers we represent have been through a series of major setbacks – from the September 11 terrorist attacks to the severe global recession – that have left them wondering about the future of their jobs and the industry. While the reauthorization of the Federal Aviation Administration (FAA) will by no means solve all of these problems, timely passage of a bill that modernizes our air traffic control system, implements safety reforms, fixes the broken bargaining system at the FAA and makes needed investments in airports is an absolute prerequisite for our nation's commercial aviation system to meet projected demands in the next decade.

The last reauthorization, Vision 100 - the Century of Aviation Reauthorization Act, expired in October 2007. Since that time, the agency has been operating on short-term funding extensions creating uncertainty in the industry and allowing problems within the FAA and outstanding safety issues to go unaddressed. The Bush FAA badly mismanaged its enormous responsibilities and will be remembered for its scorched-earth labor policies that left behind an environment of mistrust and hostility among its workforce. In addition, many essential programs designed to build the aviation system of the future have failed.

We applaud Transportation and Infrastructure Chairman James Oberstar (D-MN) and Aviation Subcommittee Chairman Jerry Costello (D-IL) for introducing the FAA Reauthorization Act of 2009 (H.R. 915) early in the 111th Congress. This bill provides historic and desperately needed investments in our aviation system and takes a huge step forward on many crucial modernization, infrastructure, safety and employee issues.

Modernization and Infrastructure

The funds provided in this bill and the oversight it demands will help ensure that the FAA pushes forward on NextGen and modernization initiatives that will improve air traffic control services to meet future requirements. The FAA forecasts that by 2021 passenger traffic will increase 49 percent to 1.16 billion passengers annually. At present, our aviation system is ill-equipped to handle this anticipated growth. Airports are operating at capacity, radar-based air traffic control systems are outdated, efficiency is decreasing and the safety of our aviation system is potentially compromised. NextGen was designed to address these issues. It will transform and modernize the air traffic control system by employing new technologies to increase efficiency, expand capacity, and enhance safety.

At the same time, airports must be improved. Runways, taxiways and terminals are in critical need of expansion and significant upgrades and ongoing maintenance will be required. Long-term investment is critical given the length of time airport projects take to plan, design and complete. We specifically support the robust funding levels provided in H.R. 915 for the airport improvement program.

As NextGen moves forward, it is critical that the aviation workers and FAA employees responsible for operating, maintaining, certifying and protecting this country's aviation system be included in the planning, development and deployment of modernization projects. The expertise of FAA controllers and technicians will benefit NextGen transformation and potentially save on costs and project times. The previous Administration discouraged this kind of cooperation, demonized its workforce and undermined their bargaining rights. The Obama Administration inherits an opportunity to create lasting partnerships with the employees of the FAA that will benefit the users of our aviation system for the next decade and beyond.

ADS-B is a crucial component of NextGen. It will provide enhanced communications, weather and surveillance capabilities simultaneously to pilots and air traffic controllers. As Congress considers FAA reauthorization, it must take a serious look at the FAA's alarming approach to ADS-B acquisition. The FAA has changed its long-standing policies for certification of the systems and services that make up our nation's air traffic control system, taking the position that the agency can no longer certify systems that the FAA does not own. The FAA then awarded a contract that provides for private entities to own the ADS-B system. In other words, the future communications backbone of the air traffic control system will be owned by corporations and will not be subject to certification by FAA employees.

Such a major change in government policy has the potential to have far-reaching consequences to the integrity and reliability of our nation's air traffic control system. This type of alteration should not be made merely to allow the FAA to follow a specific acquisition strategy aimed at forwarding the previous administration's agenda of privatizing the air traffic control system. It is no less crucial for the FAA to ensure the integrity and reliability of systems simply because they are privately owned; in fact, it is even more important when the system is entirely owned by a private corporation. As Congress considers FAA reauthorization, it must include language requiring that the FAA certify systems and services used in our air traffic control system regardless of ownership.

Congress must also block any proposed pilot program to transfer responsibility for ownership, maintenance and operation of air navigation facilities from the FAA to smaller airports.

Any discussion involving modernization of the National Airspace System (NAS) will also address possible consolidation and realignment of FAA facilities to assist in the NextGen transition. We support reauthorization language establishing a workgroup to review and make recommendations on consolidation proposals. Representatives from all of the affected bargaining units must be included in this process.

Fixing the FAA's Broken Bargaining System

Key FAA initiatives will fail if Congress and the President do not fix the broken FAA bargaining system. We strongly support the provision in the Oberstar-Costello bill that will ensure a fair and balanced collective bargaining system. TTD's Executive Committee, as well as the AFL-CIO

Executive Council, strongly condemned the Bush FAA for its decision in 2006 to unilaterally impose work and pay rules on air traffic controllers represented by the National Air Traffic Controllers Association (NATCA). Despite claims to the contrary, air traffic controllers are not working under a “contract” (they never ratified the changes). It is therefore not surprising that safety, morale and staffing problems have plagued the system. In addition, four out of five bargaining units within the Professional Aviation Safety Specialists (PASS) have been at impasse for over five years and the previous FAA leadership simply refused to bargain in good faith. In fact, 98 percent of PASS’s Technical Operations Unit rejected the FAA’s proposed final agreement.

H.R. 915 would send NATCA and the FAA back to the bargaining table so that the parties can reach a negotiated settlement. The bill also establishes a process of mediation and binding arbitration for all FAA employees (if negotiations fail to bring about an agreement) so that the bargaining system is fixed going forward.

Protecting the Rights of Aviation Workers

The FAA reauthorization bill also presents an opportunity for Congress to protect the rights of workers to bargain collectively and to protect the jobs of workers as international aviation expands.

Specifically, Congress must ensure that companies like FedEx are no longer able to misclassify their ground workers as aviation workers, covered under the Railway Labor Act (RLA) and not the National Labor Relations Act (NLRA). This is not an insignificant or academic distinction. It is far more difficult for workers to organize under the RLA than it is under the NLRA. Workers under the RLA must organize nationally, while the NLRA allows workers to organize on a local level. It is not surprising that FedEx ground workers have been denied union representation and the company has made it clear that its legal and lobbying battle to remain under the RLA is motivated by a desire to stay union-free. It is significant that other so-called express carriers, including UPS, are correctly covered by the NLRA for their ground employees (i.e. truck drivers) and by the RLA for their legitimate aviation workers (i.e. airline pilots). Coverage of our nation’s labor laws should not be manipulated by a multi-billion dollar company simply to lower wages, benefits and working conditions and in the process gain an unfair competitive advantage over other companies such as UPS who follow the rules. H.R. 915 includes a provision that would finally address this problem and ensure that all express carriers are covered under the RLA for their aviation workers and the NLRA for their ground employees. The provision, which passed in the Transportation and Infrastructure Committee in 2007 by a vote of 51-18, must be retained in the final bill.

Congress should also address the related problem of companies that provide services to air carriers insisting on being covered by the RLA although their business is more appropriately covered under the NLRA. Many employees have lost their union representation and collective bargaining protections as a result of the National Mediation Board (NMB) asserting jurisdiction over long-held NLRA units. When this happens, workers’ rights to representation and collective bargaining agreements, that in some cases have been in place for decades, are terminated.

The Merit Systems Protection Board (MSPB), which is charged with protecting the interest of federal workers, must also be reformed. The FAA personnel reforms included in the 1996 FAA reauthorization bill (and subsequent changes included in the 2000 Wendell Ford Act) deny the MSPB

legal authority to render decisions regarding back pay for agency employees who have been improperly terminated, suspended or otherwise subjected to unwarranted personnel actions. These were unintended consequences of personnel reform and should be corrected in the FAA reauthorization.

Foreign Ownership & Control and Cabotage

Congress must also move to ensure that foreign carriers and other interests do not own or control U.S. airlines. While these limitations are currently included in U.S. law and regulation, the European Union (EU) is aggressively pushing the U.S. to change these rules as part of second stage talks over an Open Skies agreement to further liberalize transatlantic air travel. We support expanded international aviation opportunities including Open Skies agreements. But these agreements must protect legitimate U.S. interests, including those of U.S. aviation workers. Forcing the U.S. to change its ownership and control rules, or worse yet, allowing foreign carriers to engage in cabotage – point to point service in the U.S. – is simply not an acceptable outcome.

In 2006, Congress specifically rejected a Bush Administration proposal to change U.S. control rules as part of an Open Skies agreement with the EU. Despite this repudiation, stage one talks produced an agreement that infringed on our ownership rules and allowed individual EU countries to withdraw from the agreement if further changes were not secured in the current second stage talks. Congress must use the FAA bill to reinforce the importance of U.S. ownership and control rules of U.S. airlines. Specifically, we support Section 801 of H.R. 915, which reiterates that U.S. carriers must be under the actual control of U.S. citizens.

Safety Reforms

FAA Reauthorization must also be used to address key safety issues. This legislation presents a critical opportunity to make the aviation system safer for its users and workers.

- **OSHA Protections for Flight Attendants.** Since 1970 American workers have enjoyed the benefits and protections afforded by the Occupational Safety and Health Act (OSHA). Unfortunately, these protections do not apply to flight attendants. In 1975, the FAA unilaterally asserted jurisdiction over workplace safety for flight attendants working in aircraft cabins yet the agency never prescribed or enforced safety and health standards or regulations. In 2000, the FAA and OSHA signed a Memorandum of Understanding (MOU) to establish a cooperative arrangement to extend workplace protections to the aircraft cabin. While this was a positive development, the Bush Administration refused to implement the MOU. The Oberstar-Costello bill requires the FAA to establish regulations that will provide a cabin environment free from hazards that can cause physical harm and meet minimum standards for the occupational safety and health of flight attendants in the cabin. This is a long overdue protection for flight attendants and must be enacted without further delay.
- **Foreign Repair Stations.** Aircraft repair work is being outsourced overseas at an alarming rate and under lax federal regulation. The DOT Inspector General recently determined that 71 percent of heavy airframe maintenance work is now outsourced with about 27 percent going to foreign stations. During this period of increased outsourcing, the number of FAA-certified

foreign repair facilities increased from 344 in 1994 to 698 in 2007. The FAA bill must address the safety and security implications of this alarming trend. Foreign repair stations are not held to the same safety and security standards as are domestic repair stations. Workers at foreign repair stations do not have to undergo background security checks, drug and alcohol testing, unscheduled inspections and oversight of certain repair work. To make matters worse, airlines routinely outsource repair work to facilities abroad that are not even certified by the FAA, making oversight and regulatory compliance virtually impossible. The Oberstar-Costello bill mandates that foreign stations are inspected at least twice a year by FAA inspectors and are held to the same drug and alcohol testing rules as U.S. stations. And air carriers must use certified stations for maintenance work that is substantial, regularly scheduled or a required inspection item.

- **FAA Staffing Crisis.** After the FAA unilaterally imposed work and pay rules on its air traffic controllers, thousands of employees resigned or sought early retirement. In the last several years, NATCA has lost 5,000 controllers, and only 700 new controllers have been certified. This has led to a severe staffing crisis that may take the FAA years to correct. The agency's past irresponsibility has jeopardized the safety and integrity of our air space system. According to the FAA, it will hire and train nearly 17,000 controllers in the next 10 years. It takes several years to complete air traffic control training and as the FAA replaces its workforce, 25 percent could be less experienced trainees. Knowing that controller attrition has vastly exceeded predictions in recent years, we urge Congress to provide appropriate oversight and adequate funding to ensure a safe level of highly skilled and trained controllers.

Congress must also contend with the understaffing of its Air Traffic Organization (ATO) Technical Operations Unit. These employees install, maintain, repair and certify the radar, navigation and communication systems making up the air traffic control system. The FAA has fallen below 6,100 technicians, the figure previously agreed upon by the agency and PASS as being the minimum number needed to maintain the system safely. The agency's failure to hire an adequate number of technicians has contributed to flight delays, increased outages, and delays in repairs leaving passengers stranded for longer periods of time. The FAA must work immediately to increase staffing to safe, previously agreed upon levels. We support language in the House bill requiring the comptroller general to study the training of technicians and the National Academy of Sciences to issue a report on the staffing methods used by the FAA to ensure adequate technician staffing.

Congress must also address the aviation safety inspectors staffing situation. Inspector staffing levels are not adequate to meet growing industry demands and ensure the safety of the aviation system, and half of FAA inspectors are eligible to retire over the next five years. We support language in the House bill directing the FAA to increase the number of inspectors and authorizing specific funding to increase safety-critical staffing.

- **Flight Crew Fatigue.** Fatigue is of paramount concern for workers in the aviation industry. Current regulatory requirements dealing with rest and duty periods are inadequate, leaving both flight attendants and pilots deprived of critically needed rest. Flight crews find themselves working increasingly longer and irregular shifts and across multiple time zones. In the face of past and ongoing financial turmoil, air carriers have pushed flight crews to work right up to the

FAA regulatory limit and have taken advantage of "reduced rest" provisions. It is not unusual for flight crews to be assigned only 8 hours of rest. Considering travel to a layover hotel, checking-in, eating, and dressing, 8 hours of rest easily translates into a 3 or 5 hour window of sleep. Congress must ensure that the FAA can reform flight and duty time based on sound science. Specifically, the FAA reauthorization must require a pilot fatigue study with the National Academy of Sciences (NAS) and subsequent rulemaking to update flight and duty time requirements for pilots. In addition, this legislation must extend the deadline for the Civil Aerospace Medical Institute (CAMI) to complete its study on flight attendant fatigue. This issue cannot be solved solely through collective bargaining. Federal regulation and enforcement is needed.

- **Runway Safety.** As air traffic increases, the potential for runway incursions increases as well. Airports and runways built decades ago are difficult to upgrade or redesign to accommodate larger aircraft. Congress can greatly improve ongoing efforts to mitigate the risks of runway incursions, excursions and confusion by ensuring that appropriate funding is available for a long-term modernization effort targeting those communications, navigation, and surveillance systems which directly impact runway safety. We support language in H.R. 915 which would require the FAA to develop a strategic runway safety plan and implement a runway safety alerting system.
- **Airport Rescue and Firefighting Standards.** The FAA's airport rescue and firefighting standards are gravely deficient and out of date. Under current standards, airport fire department staffing levels are inadequate to effectively respond to passenger rescue and evacuation. All other standards-making bodies that address airport firefighting, including the Department of Defense (DOD), the National Fire Protection Association (NFPA) and the International Civil Aviation Organization (ICAO) have standards for safe and effective airport and rescue firefighting that far exceed FAA standards. FAA firefighting regulations were last updated in 1988. Since that time air travel has undergone significant changes. Larger planes are flying at capacity, air traffic congestion has risen steadily and runway incursions continue to be a safety concern. The FAA must support airport firefighting safety procedures and standards that will adequately protect flight crew members, firefighters and the traveling public. The Oberstar-Costello bill helps address this problem by requiring the FAA to revise its rules on aircraft rescue and firefighting standards, taking into consideration the mission for rescue personnel, staffing levels, response times, hazmat handling, vehicle deployment and the need for equipment modernization.
- **Cabin Air Quality.** The airline cabin is the flight crew's workplace. Thus, in an environment where inordinate levels of toxins and hazardous materials may be inhaled, cabin air quality should be of paramount concern. The FAA must develop standards and regulations to ensure that workers are not exposed to high levels of pesticides, ozone gases, heated oils and hydraulic fluids. Congress must oversee this effort and insist on continued research into cabin air quality. The FAA must also determine whether aircraft temperature standards are needed to protect flight crew and passengers. Excessive heat on airplanes during standard operations and delays can be unbearable. The Oberstar-Costello bill requires the FAA to conduct a comprehensive study and report to Congress on its findings. Considering the safety and health of travelers, the FAA must move forward with this initiative.

- **Helicopter Safety.** Safety for helicopter emergency medical service (EMS) providers and helicopter pilots that operate in the Gulf of Mexico must be improved. Recently, there have been several high profile accidents involving EMS helicopter operators that have led to NTSB investigations and public hearings. Last Congress, the Senate FAA Reauthorization bill required a rulemaking to improve safety requirements for helicopter EMS operators. This language should be included in a final bill. Likewise the safety of helicopter pilots operating in the Gulf of Mexico must be addressed. These pilots provide transportation for passengers and supplies to and from oil platforms in the Gulf, fly at low altitudes, in remote areas and encounter a variety of weather patterns. In 2006, the FAA entered into an agreement with the helicopter industry to employ ADS-B technology in the Gulf of Mexico. This technology will enhance communication, weather and surveillance capabilities for pilots. It is critical that the FAA receive full funding for further development and completion of ADS-B in the Gulf of Mexico.
- **Flight Deck Doors for All-Cargo Aircraft.** It is not uncommon for all-cargo flights to operate without flight deck doors. In fact, newly manufactured all-cargo aircraft are not required to install flight deck doors at all. Consequently, flight crews are exposed to significant safety and security risks. They do not have the benefit of air marshals, a cabin crew or willing passengers to assist if non-crew personnel pose a threat. Additionally, all-cargo airliners regularly carry additional, non-crew personnel, such as couriers and animal handlers. And, due to limited ground security procedures, it is potentially easier for an intruder to gain access to a cargo aircraft. The Transportation Security Administration (TSA) has stated that hijacking poses the greatest threat to all-cargo operations. All aircraft operating under FAR Part 121 must be afforded the same standards of safety and security and the FAA must specifically mandate that all-cargo carriers are equipped with adequate flight deck doors.
- **Carry-On Baggage Limitations.** Recently, in response to high fuel prices and plummeting revenue, many carriers began implementing new checked baggage service fees. These policies have resulted in an increase in the size and number of carry-on pieces that passengers are bringing on board aircraft. This in turn causes problems ranging from disruption in the cabin, delays in boarding and deplaning, physical and verbal altercations between flight attendants and passengers and injuries and impediments to speedy evacuations. To address this problem, Congress must require the FAA and TSA to issue uniform and enforceable regulations that will set limits on carry-on bags.
- **Data Protections.** Pilots, flight attendants, controllers, mechanics and other aviation professionals are on the front lines of daily operations and need to be able to report safety hazards they observe without fear of retribution, discipline or action in civil litigation. Voluntary, non-punitive safety reporting programs, such as the Aviation Safety Action Program (ASAP) and the Flight Operations Quality Assurance program (FOQA), have proven to be an invaluable source of safety information. Data gathered from voluntary safety reports is often not obtainable through other means and is an important tool in studying trends and improving safety issues. Aviation professionals have an inherent interest in identifying and correcting safety deficiencies and they must not be hindered from doing so. Legislation is necessary to provide guaranteed protection from misuse of voluntarily supplied safety information.

A robust FAA reauthorization bill that incorporates the recommendations and input from front-line private and public sector aviation workers must be a priority for the new Congress and the new Administration. And we know that groups representing a wide range of aviation stakeholders are calling for quick passage of this bill. We support this call but at the same time will insist that this legislation address the significant challenges facing the FAA and the entire aviation system. The broken collective bargaining system at the FAA must be fixed and productive labor-management relations restored; the safety provisions endorsed by TTD and our affiliated unions must be implemented; the FedEx collective bargaining provision must be enacted; policy on cabotage restrictions and foreign control and ownership rules must be codified; and modernization and airport improvement initiatives must be fully funded. This is a comprehensive agenda but it is the right agenda for our aviation system and its workers to succeed.

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