

108TH CONGRESS
1ST SESSION

H. R. 753

To amend title 49, United States Code, to provide assistance for the construction of certain air traffic control towers.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2003

Mr. WICKER (for himself, Mr. NORWOOD, Ms. HART, Mr. THOMPSON of Mississippi, Mr. MORAN of Kansas, Mr. TAYLOR of Mississippi, Mr. HASTINGS of Washington, Mr. NETHERCUTT, Mr. BARTLETT of Maryland, Mrs. CUBIN, Mr. PICKERING, Mr. BONILLA, Mr. EVANS, Mr. JOHNSON of Illinois, Mr. CASE, Mr. ABERCROMBIE, Mr. WELLER, Mr. MCCREERY, Mr. PETERSON of Pennsylvania, Mr. STENHOLM, Mr. FROST, Mr. REHBERG, Mr. LAHOOD, and Mr. BOOZMAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to provide assistance for the construction of certain air traffic control towers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Airport Safety,
5 Security, and Air Service Improvement Act of 2003”.

1 **SEC. 2. INCLUSION OF TOWERS IN AIRPORT DEVELOP-**
2 **MENT.**

3 Section 47102(3) of title 49, United States Code, is
4 amended by adding at the end the following:

5 “(M) constructing an air traffic control
6 tower or acquiring and installing air traffic con-
7 trol, communications, and related equipment at
8 an air traffic control tower under the terms
9 specified in section 47124(b)(4).”.

10 **SEC. 3. CONSTRUCTION OF AIR TRAFFIC CONTROL TOW-**
11 **ERS.**

12 (a) IN GENERAL.—Section 47124(b)(4) of title 49,
13 United States Code, is amended to read as follows:

14 “(4) CONSTRUCTION OF AIR TRAFFIC CONTROL
15 TOWERS.—

16 “(A) GRANTS.—The Secretary may pro-
17 vide grants to a sponsor of—

18 “(i) a primary airport—

19 “(I) from amounts made avail-
20 able under sections 47114(c)(1) and
21 47114(c)(2) for the construction or
22 improvement of a nonapproach control
23 tower, as defined by the Secretary,
24 and for the acquisition and installa-
25 tion of air traffic control, communica-

1 tions, and related equipment to be
2 used in that tower;

3 “(II) from amounts made avail-
4 able under sections 47114(c)(1) and
5 47114(c)(2) for reimbursement for
6 the cost of construction or improve-
7 ment of a nonapproach control tower,
8 as defined by the Secretary, incurred
9 after October 1, 1996, if the sponsor
10 complied with the requirements of sec-
11 tions 47107(e), 47112(b), and
12 47112(c) in constructing or improving
13 that tower; and

14 “(III) from amounts made avail-
15 able under sections 47114(c)(1) and
16 47114(c)(2) for reimbursement for
17 the cost of acquiring and installing in
18 that tower air traffic control, commu-
19 nications, and related equipment that
20 was acquired or installed after Octo-
21 ber 1, 1996; and

22 “(ii) a public-use airport that is not a
23 primary airport—

24 “(I) from amounts made avail-
25 able under sections 47114(c)(2) and

1 47114(d) for the construction or im-
2 provement of a nonapproach control
3 tower, as defined by the Secretary,
4 and for the acquisition and installa-
5 tion of air traffic control, communica-
6 tions, and related equipment to be
7 used in that tower;

8 “(II) from amounts made avail-
9 able under sections 47114(c)(2) and
10 47114(d)(3)(A) for reimbursement for
11 the cost of construction or improve-
12 ment of a nonapproach control tower,
13 as defined by the Secretary, incurred
14 after October 1, 1996, if the sponsor
15 complied with the requirements of sec-
16 tions 47107(e), 47112(b), and
17 47112(c) in constructing or improving
18 that tower; and

19 “(III) from amounts made avail-
20 able under sections 47114(c)(2) and
21 47114(d)(3)(A) for reimbursement for
22 the cost of acquiring and installing in
23 that tower air traffic control, commu-
24 nications, and related equipment that

1 was acquired or installed after Octo-
2 ber 1, 1996.

3 “(B) ELIGIBILITY.—An airport sponsor
4 shall be eligible for a grant under this para-
5 graph only if—

6 “(i)(I) the sponsor is a participant in
7 the Federal Aviation Administration con-
8 tract tower program established under sub-
9 section (a) and continued under paragraph
10 (1) or the pilot program established under
11 paragraph (3); or

12 “(II) construction of a nonapproach
13 control tower would qualify the sponsor to
14 be eligible to participate in such program;

15 “(ii) the sponsor certifies that it will
16 pay not less than 10 percent of the cost of
17 the activities for which the sponsor is re-
18 ceiving assistance under this paragraph;

19 “(iii) the Secretary affirmatively ac-
20 cepts the proposed contract tower into a
21 contract tower program under this section
22 and certifies that the Secretary will seek
23 future appropriations to pay the Federal
24 Aviation Administration’s cost of the con-

1 tract to operate the tower to be con-
2 structed under this paragraph;

3 “*(iv)* the sponsor certifies that it will
4 pay its share of the cost of the contract to
5 operate the tower to be constructed under
6 this paragraph; and

7 “*(v)* in the case of a tower to be con-
8 structed under this paragraph from
9 amounts made available under section
10 47114(d)(2) or 47114(d)(3)(B), the Sec-
11 retary certifies that—

12 “*(I)* the Federal Aviation Admin-
13 istration has consulted the State with-
14 in the borders of which the tower is to
15 be constructed and the State supports
16 the construction of the tower as part
17 of its State airport capital plan; and

18 “*(II)* the selection of the tower
19 for funding is based on objective cri-
20 teria, giving no weight to any congres-
21 sional committee report, joint explana-
22 tory statement of a conference com-
23 mittee, or statutory designation.

24 “*(C)* LIMITATION ON FEDERAL SHARE.—

25 The Federal share of the cost of construction of

1 a nonapproach control tower under this para-
2 graph may not exceed \$1,100,000.”.

3 (b) CONFORMING AMENDMENTS.—Section 47124(b)
4 of such title is amended—

5 (1) in paragraph (3)(A) by striking “Level I air
6 traffic control towers, as defined by the Secretary,”
7 and inserting “nonapproach control towers, as de-
8 fined by the Secretary,”; and

9 (2) in paragraph (3)(E) by striking “Subject to
10 paragraph (4)(D), of” and inserting “Of”.

11 (c) SAVINGS CLAUSE.—Notwithstanding the amend-
12 ments made by this section, the 2 towers for which assist-
13 ance is being provided on the day before the date of enact-
14 ment of this Act under section 47124(b)(4) of title 49,
15 United States Code, as in effect on such day, may con-
16 tinue to be provided such assistance under the terms of
17 such section.

18 **SEC. 4. NONAPPROACH CONTROL TOWERS.**

19 (a) IN GENERAL.—The Administrator of the Federal
20 Aviation Administration may enter into a lease agreement
21 or contract agreement with a private entity to provide for
22 construction and operation of a nonapproach control tower
23 as defined by the Secretary of Transportation.

24 (b) TERMS AND CONDITIONS.—An agreement en-
25 tered into under this section—

1 (1) shall be negotiated under such procedures
2 as the Administrator considers necessary to ensure
3 the integrity of the selection process, the safety of
4 air travel, and to protect the interests of the United
5 States;

6 (2) may provide a lease option to the United
7 States, to be exercised at the discretion of the Ad-
8 ministrator, to occupy any general-purpose space in
9 a facility covered by the agreement;

10 (3) shall not require, unless specifically deter-
11 mined otherwise by the Administrator, Federal own-
12 ership of a facility covered under the agreement
13 after the expiration of the agreement;

14 (4) shall describe the consideration, duties, and
15 responsibilities for which the United States and the
16 private entity are responsible;

17 (5) shall provide that the United States will not
18 be liable for any action, debt, or liability of any enti-
19 ty created by the agreement;

20 (6) shall provide that the private entity may not
21 execute any instrument or document creating or evi-
22 dencing any indebtedness with respect to a facility
23 covered by the agreement unless such instrument or
24 document specifically disclaims any liability of the

1 United States under the instrument or document;
2 and

3 (7) shall include such other terms and condi-
4 tions as the Administrator considers appropriate.

5 **SEC. 5. USE OF APPORTIONMENTS TO PAY NON-FEDERAL**
6 **SHARE OF OPERATION COSTS.**

7 (a) STUDY.—The Secretary of Transportation shall
8 conduct a study of the feasibility, costs, and benefits of
9 allowing the sponsor of an airport to use not to exceed
10 10 percent of amounts apportioned to the sponsor under
11 section 47114 of title 49, United States Code, to pay the
12 non-Federal share of the cost of operation of an air traffic
13 control tower under section 47124(b) of such title.

14 (b) REPORT.—Not later than 1 year after the date
15 of enactment of this Act, the Secretary shall transmit to
16 Congress a report on the results of the study.

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