

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 26, 2010
POSITION: Oppose

BILL NUMBER: SB 1264
AUTHOR: M. Leno

BILL SUMMARY: Commercial Airlines: Passenger Rights

This bill would establish passenger rights for those who are detained on an airline for over two hours, including such things as providing passengers with fresh air and light, waste removal service on the onboard holding tanks, and adequate food and water. This bill also would require airlines to provide specified notice regarding passenger or consumer complaint information, and would authorize the Public Utilities Commission (PUC) to levy civil penalties on airlines for violating the provisions of this bill.

FISCAL SUMMARY

- The amount of penalty revenue that would be deposited in the General Fund is unknown, but most likely minor. The penalties would be generated from the PUC levying a civil penalty of up to \$27,500 per passenger upon an air carrier for violating the provisions of the bill, and contingent on the federal government discontinuing levying fines on air carriers, as specified.
- The PUC has not reported any costs for implementing the provisions of the bill.
- The Department of Justice (DOJ) would incur an unknown, potentially several hundred thousand dollars, chargeable to the General Fund, for litigation workload to defend the state from potential lawsuits raised by air carriers.

COMMENTS

The Department of Finance is opposed to the bill for the following reasons:

- Recently implemented federal regulations ensure that airline passenger needs for food, water, sanitation, and fresh air are met when an aircraft is detained on the tarmac for two or more hours. Adding a state law on the subject would be duplicative.
- The bill would likely result in additional General Fund costs for DOJ litigation workload. While there is the potential for additional General Fund penalty revenues, Finance does not believe those revenues would offset potential DOJ litigation workload costs.

Analyst/Principal (0683) K. DaRosa	Date	Program Budget Manager Karen Finn	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

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ANALYSIS**A. Programmatic Analysis**

Currently, federal Department of Transportation (DOT) regulations, effective April 29, 2010, require air carriers to do the following: (1) adopt contingency plans for lengthy tarmac delays that include specified passenger services and to publish those plans on their Internet Web site; (2) adopt a customer service plan regarding audit compliance with the plan; and (3) inform consumers regarding related complaint filing and require a substantive response be sent to each complainant. We understand that these regulations prohibit a plane from waiting on the tarmac for more than three hours, and if this happens, the plane is required to return to the gate. The regulations also mandate that departing and arriving planes held on the tarmac must, after two hours, provide detained passengers with fresh air and light, waste removal service of the onboard holding tanks, and adequate food and water.

According to the author's office, the provisions of this bill are intended to conform state law to federal regulations. Finance notes that adding a conforming state law is unnecessary as recent federal regulations have been implemented to ensure that airline passenger needs for food, water, sanitation, and fresh air are met when an aircraft is detained on the tarmac for two or more hours.

We understand that in 2007 litigation in the state of New York attempted to enact consumer protection measures for airline passengers using New York airports. The Air Transportation Association of America challenged the law, which a federal district court upheld, but the U.S. Court of Appeals for the Second Circuit overturned on the grounds that it violated the Airline Deregulation Act of 1978. We are concerned that, if this bill is enacted in California, a lawsuit would be filed challenging its implementation.

The author's office indicates that this bill does not address the "3 hour return to gate provision" as contained in federal law because such a provision is focused on airport operations, and this bill is primarily intended to address personal assistance provided to passengers.

B. Fiscal Analysis

The bill does not contain an appropriation to cover its implementation costs. At this time, the PUC reports that it would not incur any significant workload costs to implement the bill, and the Department of Justice (DOJ) has not analyzed the bill. Finance believes that to the extent the bill is enacted and challenged in the courts, DOJ would experience increased litigation workload, possibly costing several hundred thousand dollars, chargeable to the General Fund.

The bill specifies that if the federal DOT discontinues levying fines on air carriers, as specified, for departing or arriving passenger aircraft that are delayed on the ground, the PUC may levy a civil penalty of up to \$27,500 per passenger upon an air carrier for violations of the provisions of the bill. The penalty revenues would be deposited in the GF. Finance has no data to estimate the total amount of penalty revenues that could be generated, but we believe that the amount of penalty revenues would not offset the costs of the litigation workload that could be incurred by DOJ.

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

AUTHOR

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	
1643/PenAssessm	RV	No		-----	No/Minor Fiscal Impact	-----			0001
0820/Justice	SO	No		-----	See Fiscal Analysis	-----			0001
8660/PUC	SO	No		-----	No/Minor Fiscal Impact	-----			0461
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
0461	Public Util Comm Transport Reimb Acct								