
SUBSTITUTE SENATE BILL 6173

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Land Use & Planning (originally sponsored by Senators Haugen, Mulliken, Horn, Morton, Pflug and Kastama)

READ FIRST TIME 02/09/04.

1 AN ACT Relating to requiring storm water and wetland mitigation for
2 public-use airports to be compatible with safe airport operations;
3 amending RCW 90.74.020; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Most public-use airports have large tracts of open, unimproved
7 land that are desirable for added margins of safety and noise
8 mitigation. These areas can present potential hazards to aviation
9 because they often attract wildlife. Wildlife use of areas within an
10 airport's approach or departure airspace, aircraft movement areas,
11 loading ramps, or aircraft parking areas may cause safety hazards
12 resulting from collisions between wildlife and aircraft;

13 (b) A 2003 memorandum of agreement between the federal aviation
14 administration and several federal agencies reports that wildlife-
15 aircraft strikes are the second leading cause of aviation-related
16 fatalities worldwide and that during the 1990s, wildlife-aircraft
17 strikes damaged four thousand five hundred civilian United States'
18 aircraft, destroyed nineteen aircraft, killed six people, and caused an

1 estimated four billion dollars worth of damage and associated losses;
2 and

3 (c) New public-use airport development projects may result in
4 unavoidable impacts to storm water runoff or wetlands that require
5 mitigation. Storm water and wetland mitigation that attracts or
6 sustains hazardous wildlife on or near public-use airports can
7 significantly increase the potential for wildlife-aircraft collisions.

8 (2) The legislature intends that regulatory decisions by the
9 departments of ecology and fish and wildlife regarding storm water and
10 wetland mitigation resulting from public-use airport development
11 projects should, to the maximum extent allowable under federal and
12 state law, be compatible with safe airport operations.

13 **Sec. 2.** RCW 90.74.020 and 1997 c 424 s 3 are each amended to read
14 as follows:

15 (1) Project proponents may use a mitigation plan to propose
16 compensatory mitigation within a watershed. A mitigation plan shall:

17 (a) Contain provisions that guarantee the long-term viability of
18 the created, restored, enhanced, or preserved habitat, including
19 assurances for protecting any essential biological functions and values
20 defined in the mitigation plan;

21 (b) Contain provisions for long-term monitoring of any created,
22 restored, or enhanced mitigation site; (~~and~~)

23 (c) Be consistent with the local comprehensive land use plan and
24 any other applicable planning process in effect for the development
25 area, such as an adopted subbasin or watershed plan; and

26 (d) For infrastructure development involving public-use airports,
27 be consistent with the federal aviation administration's recommended
28 land use practices related to compatibility with safe airport
29 operations.

30 (2) The departments of ecology and fish and wildlife may not limit
31 the scope of options in a mitigation plan to areas on or near the
32 project site, or to habitat types of the same type as contained on the
33 project site. The departments of ecology and fish and wildlife shall
34 fully review and give due consideration to compensatory mitigation
35 proposals that improve the overall biological functions and values of
36 the watershed or bay and accommodate the mitigation needs of

1 infrastructure development. The mitigation needs of infrastructure
2 development involving public-use airports include the need for
3 compatibility with safe airport operations.

4 The departments of ecology and fish and wildlife are not required
5 to grant approval to a mitigation plan that the departments find does
6 not provide equal or better biological functions and values within the
7 watershed or bay.

8 (3) When making a permit or other regulatory decision under the
9 guidance of this chapter relating to the infrastructure development
10 needs of public-use airports, the departments of ecology and fish and
11 wildlife shall consider the compatibility of the permit condition or
12 regulatory decision with the aircraft and airport operational safety
13 requirements of the federal aviation administration. The departments
14 of ecology and fish and wildlife may not require an airport operating
15 under the authority of chapter 14.08 RCW to engage in land uses that
16 are incompatible with the federal aviation administration's recommended
17 land use practices relating to aircraft and airport operational safety.

18 (4) When making a permit or other regulatory decision under the
19 guidance of this chapter, the departments of ecology and fish and
20 wildlife shall consider whether the mitigation plan provides equal or
21 better biological functions and values, compared to the existing
22 conditions, for the target resources or species identified in the
23 mitigation plan. This consideration shall be based upon the following
24 factors:

25 (a) The relative value of the mitigation for the target resources,
26 in terms of the quality and quantity of biological functions and values
27 provided;

28 (b) The compatibility of the proposal with the intent of broader
29 resource management and habitat management objectives and plans, such
30 as existing resource management plans, watershed plans, critical areas
31 ordinances, and shoreline master programs;

32 (c) The ability of the mitigation to address scarce functions or
33 values within a watershed;

34 (d) The benefits of the proposal to broader watershed landscape,
35 including the benefits of connecting various habitat units or providing
36 population-limiting habitats or functions for target species;

37 (e) The benefits of early implementation of habitat mitigation for

1 projects that provide compensatory mitigation in advance of the
2 project's planned impacts; and

3 (f) The significance of any negative impacts to nontarget species
4 or resources.

5 ((+4)) (5) A mitigation plan may be approved through a memorandum
6 of agreement between the project proponent and either the department of
7 ecology or the department of fish and wildlife, or both.

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