

SENATE BILL REPORT

ESHB 1562

As Reported By Senate Committee On:
Transportation, April 2, 1999

Title: An act relating to the adoption of regulations by airport operators for airport rental, use, and collection of charges.

Brief Description: Changing provisions relating to the adoption of regulations by airport operators.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Scott, Mulliken and G. Chandler).

Brief History:

Committee Activity: Transportation: 3/31/99, 4/2/99 [DPA].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended.

Signed by Senators Haugen, Chair; Gardner, Vice Chair; Goings, Vice Chair; Benton, Costa, Eide, Horn, Jacobsen, Johnson, Morton, Oke, Patterson, Sheahan, T. Sheldon, Shin and Swecker.

Staff: Paul Johnson (786-7839)

Background: Airports are generally owned and operated by port districts, cities, and counties. Airport operators may adopt regulations necessary for use of airport facilities and collecting airport charges.

The regulations allow airport personnel to take reasonable measures to secure an aircraft in the airport to prevent its removal if the owner fails to pay airport charges after 60 days. When the aircraft is impounded, personnel must attach a notice to the aircraft and mail a copy of the notice to the owner's last known address by both registered mail and by first class mail.

If the account is not paid in full within 180 days from the date the notice was attached, the aircraft may be sold at a public auction to satisfy the airport charges. The notice must state the time and place of the sale.

The airport may adopt regulations that allow airport personnel to place aircraft in an area for storage. Reasonable costs for any such procedure shall be paid by the aircraft's owner.

The aircraft will be considered abandoned if it has not been released to the owner under the bonding provisions within 180 days after the owner is notified.

Before the aircraft is sold, the owner shall be given at least 20 days notice of the sale by registered mail and by newspaper. The notice shall include a reasonable description of the aircraft to be sold, the time of sale, and that the airport operator may become a purchaser at the sale.

The airport regulations, including any and all impoundment rules for delinquent charges, must be posted in the airport manager's office.

Currently in the State of Washington, there are approximately 5,700 registered aircraft. Under current distribution laws, 90 percent of the excise tax collected for aircraft registration is deposited in the General Fund and 10 percent is deposited into the Aeronautics Account of the Transportation Fund. There is also an additional \$4 fee attached to every aircraft registration which is dedicated to the Aeronautics Account. Despite the imbalance of current revenue distributions, the aircraft registration program is entirely administered by the Department of Transportation's Aviation Division.

Summary of Amended Bill: Reasonable measures to secure aircrafts may be taken if the owner fails to pay the airport charges after (1) being notified the charges are owing, and (2) giving the owner a right to contest those charges. In addition, action can also be taken if the owner fails to commence legal proceedings. The 60-day waiting period before impoundment is removed.

In the case where an aircraft owner's address is unknown, the airport operator must make reasonable effort to notify the owner before securing the aircraft. The airport owner must make a reasonable attempt to send a copy of the notice to the owner's last known address by registered mail, and a reasonable attempt to send an additional copy by first class mail.

The waiting period for payment is reduced to 90 days from 180 days after the notice was posted. The original notice no longer must state the time and place of the sale.

Procedures for personnel to move aircraft are clarified. An aircraft may be moved to areas under the operator's control for storage purposes. The term costs— replaces reasonable costs— to eliminate confusion.

To regain possession of an aircraft, an owner may post money in a trust account which terminates following either a judicial resolution in a court or upon a written agreement.

The 20-day notice of sale by registered mail is made only if the owner's name and address are known.

Before the aircraft is sold, any person seeking to redeem an impounded aircraft may commence a lawsuit to contest the validity of the impoundment or the airport charges owed. The lawsuit must begin within 10 days from the date of notification under the statute. If not commenced within 10 days, then the right to a hearing is waived and the owner is liable for any airport charges owed to the airport operator. If there is litigation, the prevailing party is entitled to attorneys' fees and costs.

If no one purchases the aircraft at a sale, if the aircraft is not removed from the premises, or if other arrangements are not made within 10 days of the sale, then the airport operator gains title to the aircraft.

The current \$4 aircraft registration fee is increased to \$8. Airplanes housed at airports jointly owned or operated by governmental entities from two or more states, and whose owners are nonresidents of Washington State, are exempt from paying Washington's aircraft registration excise tax if they can show proof that they have paid all taxes, license fees, and registration fees required by the state in which they reside. (Example: Idaho residents whose planes are housed at the Pullman Moscow airport would be exempt from Washington's aircraft registration excise tax.)

Amended Bill Compared to Substitute Bill: The aircraft registration fee is increased. A technical correction is made to exempt qualified aircraft from the aircraft registration excise tax rather than exempting certain airports from a business and occupation tax.

Appropriation: None.

Fiscal Note: Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: These changes for airport regulations will bring the law into alignment with the regulations between marina operators and vessel owners. It clarifies the law governing when and how airports may impound planes and legal remedies for owners.

Testimony Against: None.

Testified: PRO: Susie Tracy, WA Airport Management Assn.; John Sibold, Port of Bellingham.