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HOUSE BILL 1544

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State of Washington

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By Representatives Schual-Berke, Keiser, Poulsen, Santos, Quall, Ogden, McDermott, Veloria, Cody, McIntire, Kenney, Kessler, Miloscia, Haigh and Kagi

Read first time 01/29/2001. Referred to Committee on Transportation.

1 AN ACT Relating to aircraft noise abatement; amending RCW  
2 53.54.010, 53.54.030, 53.54.040, 53.36.020, 14.08.020, and 14.08.100;  
3 adding new sections to chapter 53.54 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 53.54 RCW  
6 to read as follows:

7 The legislature finds that aircraft noise at large airports  
8 negatively affects the education of children at schools located near  
9 the airports. It interferes with speech, distracts students and  
10 teachers, makes it more difficult to concentrate, and generally  
11 interferes with the education process. The legislature finds that the  
12 optional noise abatement provisions in this chapter, first enacted in  
13 1974, have not resulted in adequate aircraft noise abatement for many  
14 schools located near large airports owned by port districts. The  
15 legislature intends to mandate that port districts operating a large  
16 airport, whether currently existing or created in the future, provide  
17 resources for noise abatement to schools impacted by large airports.  
18 The revenues provided under this act are intended to supplement other

1 resources available to the port district, including federal funds and  
2 operating revenue that can be used for noise abatement.

3 **Sec. 2.** RCW 53.54.010 and 1974 ex.s. c 121 s 1 are each amended to  
4 read as follows:

5 (1) A port district operating an airport ((~~serving more than twenty~~  
6 ~~scheduled jet aircraft flights per day~~)) may undertake any of the  
7 programs or combinations of such programs, as authorized by this  
8 chapter, for the purpose of alleviating and abating the impact of jet  
9 aircraft noise on areas surrounding such airport. A port district may  
10 assist public schools in paying for, in addition to direct expenses,  
11 reasonable indirect costs resulting from noise abatements necessitated  
12 by aircraft noise from an airport operated by the district, including  
13 bringing the buildings up to code to obtain a building permit.

14 (2) A port district with a population of one million or more  
15 operating an airport serving more than twenty scheduled jet aircraft  
16 flights per day must undertake a program or programs for alleviating  
17 and abating the impact of jet aircraft noise on areas surrounding the  
18 airport, particularly area schools.

19 **Sec. 3.** RCW 53.54.030 and 1993 c 150 s 1 are each amended to read  
20 as follows:

21 For the purposes of this chapter, except with respect to schools,  
22 in developing a remedial program, the port commission may utilize one  
23 or more of the following programs:

24 (1) Acquisition of property or property rights within the impacted  
25 area, which shall be deemed necessary to accomplish a port purpose.  
26 The port district may purchase such property or property rights by time  
27 payment notwithstanding the time limitations provided for in RCW  
28 53.08.010. The port district may mortgage or otherwise pledge any such  
29 properties acquired to secure such transactions. The port district may  
30 assume any outstanding mortgages.

31 (2) Transaction assistance programs, including assistance with real  
32 estate fees and mortgage assistance, and other neighborhood remedial  
33 programs as compensation for impacts due to aircraft noise and noise  
34 associated conditions. Any such programs shall be in connection with  
35 properties located within an impacted area and shall be provided upon  
36 terms and conditions as the port district shall determine appropriate.

1 (3) Programs of soundproofing structures located within an impacted  
2 area. Such programs may be executed without regard to the ownership,  
3 provided the owner waives damages and conveys an easement for the  
4 operation of aircraft, and for noise and noise associated conditions  
5 therewith, to the port district.

6 (4) Mortgage insurance of private owners of lands or improvements  
7 within such noise impacted area where such private owners are unable to  
8 obtain mortgage insurance solely because of noise impact. In this  
9 regard, the port district may establish reasonable regulations and may  
10 impose reasonable conditions and charges upon the granting of such  
11 mortgage insurance: PROVIDED, That such fees and charges shall at no  
12 time exceed fees established for federal mortgage insurance programs  
13 for like service.

14 (5) An individual property may be provided benefits by the port  
15 district under each of the programs described in subsections (1)  
16 through (4) of this section. However, an individual property may not  
17 be provided benefits under any one of these programs more than once,  
18 unless the property is subjected to increased aircraft noise or  
19 differing aircraft noise impacts that would have afforded different  
20 levels of mitigation, even if the property owner had waived all damages  
21 and conveyed a full and unrestricted easement.

22 (6) Management of all lands, easements, or development rights  
23 acquired, including but not limited to the following:

24 (a) Rental of any or all lands or structures acquired;

25 (b) Redevelopment of any such lands for any economic use consistent  
26 with airport operations, local zoning and the state environmental  
27 policy;

28 (c) Sale of such properties for cash or for time payment and  
29 subjection of such property to mortgage or other security transaction:  
30 PROVIDED, That any such sale shall reserve to the port district by  
31 covenant an unconditional right of easement for the operation of all  
32 aircraft and for all noise or noise conditions associated therewith.

33 (7) A property shall be considered within the impacted area if any  
34 part thereof is within the impacted area.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 53.54 RCW  
36 to read as follows:

1 (1) A port district operating an airport may undertake a program or  
2 programs to pay for the direct costs of noise abatement in schools in  
3 an impact area.

4 (2) For remedial programs for public schools as authorized or  
5 required under RCW 53.54.010, a port district operating an airport may  
6 expend money to assist school districts in constructing, improving, or  
7 repairing school facilities when the construction, improvement, or  
8 repair is in any way related to or necessitated by noise abatement.  
9 However, a port district with a population of one million or more  
10 operating an airport serving more than twenty scheduled jet aircraft  
11 flights per day must expend money to assist school districts in  
12 constructing, improving, or repairing public school facilities when the  
13 construction, improvement, or repair is in any way related to or  
14 necessitated by noise abatement. For public schools, the noise  
15 abatement program must be completed to a standard similar to the noise  
16 and air quality standards that exist in similar schools outside the  
17 impacted area. If federal funds or certain airport revenue under  
18 federal law, based on an attorney general opinion, cannot be used for  
19 some of the assistance for schools authorized or required under this  
20 section or RCW 53.54.010, the port must use other revenues or moneys,  
21 including property taxes, that are not specifically restricted and the  
22 use of which does not impair contracts or obligations in existence on  
23 the effective date of this act.

24 (3) A school shall be considered within the impacted area if any  
25 part of the school is within the impacted area.

26 **Sec. 5.** RCW 53.54.040 and 1974 ex.s. c 121 s 4 are each amended to  
27 read as follows:

28 A port district may establish a fund to be utilized in effectuating  
29 the intent of this chapter. The port district may finance such fund  
30 by: The proceeds of any grants or loans made by federal agencies;  
31 rentals, charges and other revenues as may be generated by programs  
32 authorized by this chapter, airport revenues; and revenue bonds based  
33 upon such revenues. The port district may also finance such fund, as  
34 necessary, in whole or in part, with the proceeds of general obligation  
35 bond issues of not more than one-eighth of one percent of the value of  
36 taxable property in the port district: PROVIDED, That any such bond  
37 issue shall be in addition to bonds authorized by RCW 53.36.030:  
38 PROVIDED FURTHER, That any such general obligation bond issue may be

1 subject to referendum by petition as provided by county charter, the  
2 same as if it were a county ordinance. For public schools, the port  
3 district may use revenues from property taxes under RCW 53.36.020.

4 **Sec. 6.** RCW 53.36.020 and 1973 1st ex.s. c 195 s 56 are each  
5 amended to read as follows:

6 (1) A district may raise revenue by levy of an annual tax not to  
7 exceed forty-five cents per thousand dollars of assessed value against  
8 the assessed valuation of the taxable property in such port district  
9 for general port purposes, including the establishment of a capital  
10 improvement fund for future capital improvements, except that any levy  
11 for the payment of the principal and interest of the general bonded  
12 indebtedness of the port district shall be in excess of any levy made  
13 by the port district under the forty-five cents per thousand dollars of  
14 assessed value limitation. The levy shall be made and taxes collected  
15 in the manner provided for the levy and collection of taxes in school  
16 districts of the first class.

17 (2) A port district with a population of one million or more  
18 operating an airport serving more than twenty scheduled jet aircraft  
19 flights per day must use at least ten percent of the taxes collected  
20 annually under this section for unmet noise abatement needs for public  
21 schools under chapter 53.54 RCW, or as much of the amount under this  
22 subsection that does not directly impair contracts or obligations  
23 existing on the effective date of this act. This subsection does not  
24 limit the amount a port district may spend for noise abatement  
25 programs, and is not intended to define noise abatement needs.

26 **Sec. 7.** RCW 14.08.020 and 1961 c 74 s 1 are each amended to read  
27 as follows:

28 The acquisition of any lands for the purpose of establishing  
29 airports or other air navigation facilities; the acquisition of airport  
30 protection privileges; the acquisition, establishment, construction,  
31 enlargement, improvement, maintenance, equipment and operation of  
32 airports and other air navigation facilities, the mitigation of noise  
33 impacts arising from the operation of the airport facilities and  
34 aircraft using the airport facilities, and the exercise of any other  
35 powers herein granted to municipalities, are hereby declared to be  
36 public, governmental, county and municipal functions, exercised for a  
37 public purpose, and matters of public necessity, and such lands and

1 other property, easements and privileges acquired and used by such  
2 municipalities in the manner and for the purposes enumerated in this  
3 chapter shall and are hereby declared to be acquired and used for  
4 public, governmental, county and municipal purposes and as a matter of  
5 public necessity.

6 **Sec. 8.** RCW 14.08.100 and 1959 c 231 s 1 are each amended to read  
7 as follows:

8 (1) The governing bodies having power to appropriate moneys within  
9 the municipalities in this state for the purpose of acquiring,  
10 establishing, constructing, enlarging, improving, maintaining,  
11 equipping or operating airports and other air navigation facilities  
12 under the provisions of this chapter, including the mitigation of noise  
13 impacts arising from the airport and its operations, are hereby  
14 authorized to appropriate and cause to be raised by taxation or  
15 otherwise in such municipalities, moneys sufficient to carry out  
16 therein the provisions of this chapter.

17 (2) The revenues obtained from the ownership, control and operation  
18 of any such airport or other air navigation facility shall be used,  
19 first, to finance the maintenance and operating expenses thereof, and,  
20 second, to make payments of interest on and current principal  
21 requirements of any outstanding bonds or certificates issued for the  
22 acquisition or improvement thereof, and to make payment of interest on  
23 any mortgage heretofore made. Revenues in excess of the foregoing  
24 requirements may be applied to finance the extension or improvement of  
25 the airport or other air navigation facilities, and to construct,  
26 maintain, lease, and otherwise finance buildings and facilities for  
27 industrial or commercial use: PROVIDED, That such portion of the  
28 airport property to be devoted to said industrial or commercial use be  
29 first found by the governing body to be not required for airport  
30 purposes.

31 NEW SECTION. **Sec. 9.** (1) When a port district with a population  
32 of at least one million and serving more than twenty scheduled jet  
33 aircraft flights per day and a school district cannot agree on a method  
34 to mitigate noise from airplane operations as required under section  
35 4(2) of this act, the dispute shall be resolved as follows:

36 (a) The port district shall pay for all direct noise abatement  
37 costs, and half of all indirect noise abatement costs;

1 (b) The school district shall pay at least twenty-five percent of  
2 indirect noise abatement costs; and

3 (c) The state may provide up to twenty-five percent of indirect  
4 expenses. If the state has not appropriated any funds or sufficient  
5 funds for purposes of noise abatement in public schools, the school  
6 district shall pay the difference up to half the indirect costs.

7 (2)(a) If the port district with a population of at least one  
8 million and serving more than twenty scheduled jet aircraft flights per  
9 day and a school district cannot agree on the costs of the noise  
10 abatement or what is a direct expense and what is an indirect expense,  
11 the port and the school district shall refer the matter or matters to  
12 arbitration. The arbitration process shall be administered by the  
13 Thurston county superior court. The arbitration process shall begin  
14 upon the application of either a port or school district to the  
15 Thurston county superior court, with notice to the other party. The  
16 arbitrators shall be chosen as follows:

17 (i) One chosen by the port district;

18 (ii) One chosen by the school district; and

19 (iii) One chosen by the two arbitrators appointed under (a)(i) and  
20 (ii) of this subsection. If the two arbitrators cannot agree on a  
21 third, the court shall appoint the third arbitrator.

22 (b) RCW 7.04.070, 7.04.080, 7.04.090, 7.04.100, 7.04.110, 7.04.120,  
23 7.04.140, and 7.04.170 shall apply to arbitration under this subsection  
24 (2).

25 (c) The court shall set a reasonable time, not to exceed ninety  
26 days unless the court makes a finding that more time is necessary, for  
27 the arbitrators to reach a decision. If the arbitrators cannot reach  
28 a decision within the time established by the court, the court shall  
29 decide the matter or matters in dispute.

30 (d) The arbitration costs under this subsection (2) shall be paid  
31 for as follows: The port district shall pay three-fourths and the  
32 school district one-fourth.

33 (e) The decision of the arbitrators, or the court if the  
34 arbitrators cannot reach a decision, is final once it is confirmed by  
35 the court and there is no right of appeal of a decision under this  
36 subsection (2).

37 NEW SECTION. **Sec. 10.** If any provision of this act or its  
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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