
SENATE BILL 5623

State of Washington

58th Legislature

2003 Regular Session

By Senators Keiser, Swecker, Haugen and Poulsen

Read first time 02/03/2003. Referred to Committee on Land Use & Planning.

1 AN ACT Relating to planning and siting of commercial aviation
2 facilities; amending RCW 47.68.020 and 36.70A.200; and adding new
3 sections to chapter 47.68 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.68 RCW
6 to read as follows:

7 (1) In addition to any other powers, duties, and functions as
8 provided under this chapter, the aviation division of the department
9 shall plan and site new commercial aviation facilities in Washington
10 state. The responsibility of the division under this subsection is to
11 make airport siting recommendations and decisions that integrate both
12 state and regional commercial aviation needs. Accordingly, the
13 division is not limited to the options examined by the regional or
14 local authority and may also consider alternative sites outside the
15 region. In forming its recommendation the authority shall review
16 existing information and analyses regarding the siting issue. The
17 division may also hire staff for technical evaluation, analysis, and
18 research associated with the preparation of its siting recommendations.
19 The division may also consider relationships between proposed

1 facilities and other existing or planned transportation facilities of
2 statewide interest such as airports, rail services, ferry systems, or
3 highways. Once the division has made a decision, it must inform in
4 writing the legislative transportation committee, the transportation
5 committees of the legislature, the transportation commission, the
6 county or city affected, and the regional transportation planning
7 organization located in the region in which the commercial aviation
8 facility will be sited. A decision by the authority binds the state
9 and each of its political subdivisions, such as departments, agencies,
10 divisions, bureaus, commissions, boards, counties, cities, towns,
11 ports, and special districts regarding approval of a site and the
12 construction and operation of a commercial aviation facility.

13 (2) The department may adopt rules to implement this section.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.68 RCW
15 to read as follows:

16 Section 1 of this act supersedes other laws for establishing the
17 location of commercial aviation facilities. However, the requirements
18 of this chapter, and rules adopted under it, do not supersede the State
19 Environmental Policy Act, the State Clean Air Act, the State Clean
20 Water Act, the Shoreline Management Act, the laws relating to solid and
21 hazardous waste management, and all the related portions of the
22 Washington Administrative Code that implement these environmental laws.

23 **Sec. 3.** RCW 47.68.020 and 1993 c 208 s 4 are each amended to read
24 as follows:

25 As used in this chapter, unless the context clearly indicates
26 otherwise:

27 (1) "Aeronautics" means the science and art of flight and including
28 but not limited to transportation by aircraft; the operation,
29 construction, repair, or maintenance of aircraft, aircraft power plants
30 and accessories, including the repair, packing, and maintenance of
31 parachutes; the design, establishment, construction, extension,
32 operation, improvement, repair, or maintenance of airports or air
33 navigation facilities; and instruction in flying or ground subjects
34 pertaining thereto.

35 (2) "Aircraft" means any contrivance now known, or hereafter
36 invented, used or designed for navigation of or flight in the air.

1 (3) "Airport" means any area of land or water which is used, or
2 intended for use, for the landing and take-off of aircraft, and any
3 appurtenant areas which are used, or intended for use, for airport
4 buildings or other airport facilities or right-of-way, together with
5 all airport buildings and facilities located thereon.

6 (4) "Division" means the aviation division of the state department
7 of transportation.

8 (5) "Commercial aviation needs" means facilities and services
9 necessary for the successful operation of a commercial aviation
10 operation.

11 (6) "Department" means the state department of transportation.

12 ((+5)) (7) "Secretary" means the state secretary of
13 transportation.

14 ((+6)) (8) "State" or "this state" means the state of Washington.

15 ((+7)) (9) "Air navigation facility" means any facility, other
16 than one owned or operated by the United States, used in, available for
17 use in, or designed for use in aid of air navigation, including any
18 structures, mechanisms, lights, beacons, markers, communicating
19 systems, or other instrumentalities or devices used or useful as an
20 aid, or constituting an advantage or convenience, to the safe taking-
21 off, navigation, and landing of aircraft, or the safe and efficient
22 operation or maintenance of an airport, and any combination of any or
23 all of such facilities.

24 ((+8)) (10) "Operation of aircraft" or "operate aircraft" means
25 the use, navigation, or piloting of aircraft in the airspace over this
26 state or upon any airport within this state.

27 ((+9)) (11) "Airman or airwoman" means any individual who engages,
28 as the person in command, or as pilot, mechanic, or member of the crew
29 in the navigation of aircraft while under way, and any individual who
30 is directly in charge of the inspection, maintenance, overhauling, or
31 repair of aircraft engines, airframes, propellers, or appliances, and
32 any individual who serves in the capacity of aircraft dispatcher or
33 air-traffic control tower operator; but does not include any individual
34 employed outside the United States, or any individual employed by a
35 manufacturer of aircraft, aircraft engines, airframes, propellers, or
36 appliances to perform duties as inspector or mechanic in connection
37 therewith, or any individual performing inspection or mechanical duties
38 in connection with aircraft owned or operated by the person.

1 (~~(10)~~) (12) "Aeronautics instructor" means any individual who for
2 hire or reward engages in giving instruction or offering to give
3 instruction in flying or ground subjects pertaining to aeronautics, but
4 excludes any instructor in a public school, university, or institution
5 of higher learning duly accredited and approved for carrying on
6 collegiate work, who instructs in flying or ground subjects pertaining
7 to aeronautics, while in the performance of his or her duties at such
8 school, university, or institution.

9 (~~(11)~~) (13) "Air school" means any person who advertises,
10 represents, or holds out as giving or offering to give instruction in
11 flying or ground subjects pertaining to aeronautics whether for or
12 without hire or reward; but excludes any public school, university, or
13 institution of higher learning duly accredited and approved for
14 carrying on collegiate work.

15 (~~(12)~~) (14) "Person" means any individual, firm, partnership,
16 corporation, company, association, joint stock association, or body
17 politic; and includes any trustee, receiver, assignee, or other similar
18 representative thereof.

19 (~~(13)~~) (15) "Municipal" means pertaining to a municipality, and
20 "municipality" means any county, city, town, authority, district, or
21 other political subdivision or public corporation of this state.

22 (~~(14)~~) (16) "Airport hazard" means any structure, object of
23 natural growth, or use of land, which obstructs the airspace required
24 for the flight of aircraft in landing or taking off at an airport or is
25 otherwise hazardous to such landing or taking off.

26 (~~(15)~~) (17) "State airway" means a route in the navigable
27 airspace over and above the lands or waters of this state, designated
28 by the department as a route suitable for air navigation.

29 **Sec. 4.** RCW 36.70A.200 and 2002 c 68 s 2 are each amended to read
30 as follows:

31 (1) The comprehensive plan of each county and city that is planning
32 under RCW 36.70A.040 shall include a process for identifying and siting
33 essential public facilities. Essential public facilities include those
34 facilities that are typically difficult to site, such as airports,
35 state education facilities and state or regional transportation
36 facilities as defined in RCW 47.06.140, state and local correctional
37 facilities, solid waste handling facilities, and in-patient facilities

1 including substance abuse facilities, mental health facilities, group
2 homes, and secure community transition facilities as defined in RCW
3 71.09.020. Commercial aviation facilities must be sited by the process
4 set forth under section 1 of this act.

5 (2) Each county and city planning under RCW 36.70A.040 shall, not
6 later than September 1, 2002, establish a process, or amend its
7 existing process, for identifying and siting essential public
8 facilities and adopt or amend its development regulations as necessary
9 to provide for the siting of secure community transition facilities
10 consistent with statutory requirements applicable to these facilities.

11 (3) Any city or county not planning under RCW 36.70A.040 shall, not
12 later than September 1, 2002, establish a process for siting secure
13 community transition facilities and adopt or amend its development
14 regulations as necessary to provide for the siting of such facilities
15 consistent with statutory requirements applicable to these facilities.

16 (4) The office of financial management shall maintain a list of
17 those essential state public facilities that are required or likely to
18 be built within the next six years. The office of financial management
19 may at any time add facilities to the list.

20 (5) No local comprehensive plan or development regulation may
21 preclude the siting of essential public facilities.

22 (6) No person may bring a cause of action for civil damages based
23 on the good faith actions of any county or city to provide for the
24 siting of secure community transition facilities in accordance with
25 this section and with the requirements of chapter 12, Laws of 2001 2nd
26 sp. sess. For purposes of this subsection, "person" includes, but is
27 not limited to, any individual, agency as defined in RCW 42.17.020,
28 corporation, partnership, association, and limited liability entity.

29 (7) Counties or cities siting facilities pursuant to subsection (2)
30 or (3) of this section shall comply with RCW 71.09.341.

31 (8) The failure of a county or city to act by the deadlines
32 established in subsections (2) and (3) of this section is not:

33 (a) A condition that would disqualify the county or city for
34 grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

35 (b) A consideration for grants or loans provided under RCW
36 43.17.250(2); or

37 (c) A basis for any petition under RCW 36.70A.280 or for any
38 private cause of action.

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