
HOUSE BILL 3007

State of Washington

61st Legislature

2010 Regular Session

By Representatives Upthegrove, Orwall, Williams, and Wallace

Read first time 01/20/10. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to authorizing airport operators to make airport
2 property available at less than fair market rental value for public
3 recreational or other community uses; and amending RCW 14.08.120.

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

5 **Sec. 1.** RCW 14.08.120 and 2009 c 124 s 1 are each amended to read
6 as follows:

7 In addition to the general powers conferred in this chapter, and
8 without limitation thereof, a municipality that has established or may
9 hereafter establish airports, restricted landing areas, or other air
10 navigation facilities, or that has acquired or set apart or may
11 hereafter acquire or set apart real property for that purpose or
12 purposes is authorized:

13 (1) To vest authority for the construction, enlargement,
14 improvement, maintenance, equipment, operation, and regulation thereof
15 in an officer, a board, or body of the municipality by ordinance or
16 resolution that prescribes the powers and duties of the officer, board,
17 or body; and the municipality may also vest authority for industrial
18 and commercial development in a municipal airport commission consisting
19 of at least five resident taxpayers of the municipality to be appointed

1 by the governing board of the municipality by an ordinance or
2 resolution that includes (a) the terms of office, which may not exceed
3 six years and which shall be staggered so that not more than three
4 terms will expire in the same year, (b) the method of appointment and
5 filling vacancies, (c) a provision that there shall be no compensation
6 but may provide for a per diem of not to exceed twenty-five dollars per
7 day plus travel expenses for time spent on commission business, (d) the
8 powers and duties of the commission, and (e) any other matters
9 necessary to the exercise of the powers relating to industrial and
10 commercial development. The expense of the construction, enlargement,
11 improvement, maintenance, equipment, industrial and commercial
12 development, operation, and regulation are the responsibility of the
13 municipality.

14 (2) To adopt and amend all needed rules, regulations, and
15 ordinances for the management, government, and use of any properties
16 under its control, whether within or outside the territorial limits of
17 the municipality; to provide fire protection for the airport, including
18 the acquisition and operation of fire protection equipment and
19 facilities, and the right to contract with any private body or
20 political subdivision of the state for the furnishing of such fire
21 protection; to appoint airport guards or police, with full police
22 powers; to fix by ordinance or resolution, as may be appropriate,
23 penalties for the violation of the rules, regulations, and ordinances,
24 and enforce those penalties in the same manner in which penalties
25 prescribed by other rules, regulations, and ordinances of the
26 municipality are enforced. For the purposes of such management and
27 government and direction of public use, that part of all highways,
28 roads, streets, avenues, boulevards, and territory that adjoins the
29 limits of any airport or restricted landing area acquired or maintained
30 under the provisions of this chapter is under like control and
31 management of the municipality. It may also adopt and enact rules,
32 regulations, and ordinances designed to safeguard the public upon or
33 beyond the limits of private airports or landing strips within the
34 municipality or its police jurisdiction against the perils and hazards
35 of instrumentalities used in aerial navigation. Rules, regulations,
36 and ordinances shall be published as provided by general law or the
37 charter of the municipality for the publication of similar rules,
38 regulations, and ordinances. They shall conform to and be consistent

1 with the laws of this state and the rules of the state department of
2 transportation and shall be kept in conformity, as nearly as may be,
3 with the then current federal legislation governing aeronautics and the
4 regulations duly promulgated thereunder and the rules and standards
5 issued from time to time pursuant thereto.

6 (3) To create a special airport fund, and provide that all receipts
7 from the operation of the airport be deposited in the fund, which fund
8 shall remain intact from year to year and may be pledged to the payment
9 of aviation bonds, or kept for future maintenance, construction, or
10 operation of airports or airport facilities.

11 (4) To lease airports or other air navigation facilities, or real
12 property acquired or set apart for airport purposes, to private
13 parties, any municipal or state government or the national government,
14 or any department thereof, for operation; to lease or assign to private
15 parties, any municipal or state government or the national government,
16 or any department thereof, for operation or use consistent with the
17 purposes of this chapter, space, area, improvements, or equipment of
18 such airports; to authorize its lessees to construct, alter, repair, or
19 improve the leased premises at the cost of the lessee and to reimburse
20 its lessees for such cost, provided the cost is paid solely out of
21 funds fully collected from the airport's tenants; to sell any part of
22 such airports, other air navigation facilities or real property to any
23 municipal or state government, or to the United States or any
24 department or instrumentality thereof, for aeronautical purposes or
25 purposes incidental thereto, and to confer the privileges of
26 concessions of supplying upon its airports goods, commodities, things,
27 services, and facilities: PROVIDED, That in each case in so doing the
28 public is not deprived of its rightful, equal, and uniform use thereof.

29 (5) Acting through its governing body, to sell or lease any
30 property, real or personal, acquired for airport purposes and belonging
31 to the municipality, which, in the judgment of its governing body, may
32 not be required for aircraft landings, aircraft takeoffs or related
33 aeronautic purposes, in accordance with the laws of this state, or the
34 provisions of the charter of the municipality, governing the sale or
35 leasing of similar municipally owned property. The municipal airport
36 commission, if one has been organized and appointed under subsection
37 (1) of this section, may lease any airport property for aircraft
38 landings, aircraft takeoffs, or related aeronautic purposes. If there

1 is a finding by the governing body of the municipality that any airport
2 property, real or personal, is not required for aircraft landings,
3 aircraft takeoffs, or related aeronautic purposes, then the municipal
4 airport commission may lease such space, land, area, or improvements,
5 or construct improvements, or take leases back for financing purposes,
6 grant concessions on such space, land, area, or improvements, all for
7 industrial or commercial purposes, by private negotiation and under
8 such terms and conditions that seem just and proper to the municipal
9 airport commission. Any such lease of real property for aircraft
10 manufacturing or aircraft industrial purposes or to any manufacturer of
11 aircraft or aircraft parts or for any other business, manufacturing, or
12 industrial purpose or operation relating to, identified with, or in any
13 way dependent upon the use, operation, or maintenance of the airport,
14 or for any commercial or industrial purpose may be made for any period
15 not to exceed seventy-five years, but any such lease of real property
16 made for a longer period than ten years shall contain provisions
17 requiring the municipality and the lessee to permit the rentals for
18 each five-year period thereafter, to be readjusted at the commencement
19 of each such period if written request for readjustment is given by
20 either party to the other at least thirty days before the commencement
21 of the five-year period for which the readjustment is requested. If
22 the parties cannot agree upon the rentals for the five-year period,
23 they shall submit to have the disputed rentals for the period adjusted
24 by arbitration. The lessee shall pick one arbitrator, and the
25 governing body of the municipality shall pick one, and the two so
26 chosen shall select a third. After a review of all pertinent facts the
27 board of arbitrators may increase or decrease such rentals or continue
28 the previous rate thereof.

29 The proceeds of the sale of any property the purchase price of
30 which was obtained by the sale of bonds shall be deposited in the bond
31 sinking fund. If all the proceeds of the sale are not needed to pay
32 the principal of bonds remaining unpaid, the remainder shall be paid
33 into the airport fund of the municipality. The proceeds of sales of
34 property the purchase price of which was paid from appropriations of
35 tax funds shall be paid into the airport fund of the municipality.

36 (6) To determine the charges or rental for the use of any
37 properties under its control and the charges for any services or
38 accommodations, and the terms and conditions under which such

1 properties may be used: PROVIDED, That in all cases the public is not
2 deprived of its rightful, equal, and uniform use of the property.
3 Charges shall be reasonable and uniform for the same class of service
4 and established with due regard to the property and improvements used
5 and the expense of operation to the municipality. The municipality
6 shall have and may enforce liens, as provided by law for liens and
7 enforcement thereof, for repairs to or improvement or storage or care
8 of any personal property, to enforce the payment of any such charges.

9 (7) To impose a customer facility charge upon customers of rental
10 car companies accessing the airport for the purposes of financing,
11 designing, constructing, operating, and maintaining consolidated rental
12 car facilities and common use transportation equipment and facilities
13 which are used to transport the customer between the consolidated car
14 rental facilities and other airport facilities. The airport operator
15 may require the rental car companies to collect the facility charges,
16 and any facility charges so collected shall be deposited in a trust
17 account for the benefit of the airport operator and remitted at the
18 direction of the airport operator, but no more often than once per
19 month. The charge shall be calculated on a per-day basis. Facility
20 charges may not exceed the reasonable costs of financing, designing,
21 constructing, operating, and maintaining the consolidated car rental
22 facilities and common use transportation equipment and facilities and
23 may not be used for any other purpose. For the purposes of this
24 subsection (7), if an airport operator makes use of its own funds to
25 finance the consolidated rental car facilities and common use
26 transportation equipment and facilities, the airport operator (a) is
27 entitled to earn a rate of return on such funds no greater than the
28 interest rate that the airport operator would pay to finance such
29 facilities in the appropriate capital market, provided that the airport
30 operator establish the rate of return in consultation with the rental
31 car companies, and (b) may use the funds earned under (a) of this
32 subsection for purposes other than those associated with the
33 consolidated rental car facilities and common use transportation
34 equipment and facilities.

35 (8) To make airport property available for less than fair market
36 rental value under very limited conditions provided that prior to the
37 lease or contract authorizing such use the airport operator's board,
38 commission, or council has (a) adopted a policy that establishes that

1 such lease or other contract enhances the public acceptance of the
2 airport and serves the airport's business interest and (b) adopted
3 procedures for approval of such lease or other contract.

4 (9) If the airport operator has adopted the policy and procedures
5 under subsection (8) of this section, to lease or license the use of
6 property belonging to the municipality and acquired for airport
7 purposes at less than fair market rental value as long as the
8 municipality's council, board, or commission finds that the following
9 conditions are met:

10 (a) The lease or license of the subject property enhances public
11 acceptance of the airport in a community in the immediate area of the
12 airport;

13 (b) The subject property is put to a desired public recreational or
14 other community use by the community in the immediate area of the
15 airport;

16 (c) The desired community use and the community goodwill that would
17 be generated by such community use serves the business interest of the
18 airport in ways that can be articulated and demonstrated;

19 (d) The desired community use does not adversely affect the
20 capacity, security, safety, or operations of the airport;

21 (e) At the time the community use is contemplated, the subject
22 property is not reasonably expected to be used by an aeronautical
23 tenant or otherwise be needed for airport operations in the foreseeable
24 future;

25 (f) At the time the community use is contemplated, the subject
26 property would not reasonably be expected to produce more than de
27 minimus revenue;

28 (g) If the subject property can be reasonably expected to produce
29 more than de minimus revenue, the community use is permitted only where
30 the revenue to be earned from the community use would approximate the
31 revenue that could be generated by an alternate use;

32 (h) Leases for community use must not preclude reuse of the subject
33 property for airport purposes if, in the opinion of the airport owner,
34 reuse of the subject property would provide greater benefits to the
35 airport than continuation of the community use;

36 (i) The airport owner ensures that airport revenue does not support
37 the capital or operating costs associated with the community use;

1 (j) The lease or other contract for community use is not to a
2 for-profit organization or for the benefit of private individuals;

3 (k) The lease or other contract for community use is subject to the
4 requirement that if the term of the lease is for a period that exceeds
5 ten years, the lease must contain a provision allowing for a
6 readjustment of the rent every five years after the initial ten-year
7 term;

8 (l) The lease or other contract for community use is subject to the
9 requirement that the term of the lease must not exceed fifty years; and

10 (m) The lease or other contract for community use is subject to the
11 requirement that if the term of the lease exceeds one year, the lease
12 or other contract obligations must be secured by rental insurance,
13 bond, or other security satisfactory to the municipality's board,
14 council, or commission in an amount equal to at least one year's rent,
15 or as consistent with chapter 53.08 RCW. However, the municipality's
16 board, council, or commission may waive the rent security requirement
17 or lower the amount of the rent security requirement for good cause.

18 (10) To exercise all powers necessarily incidental to the exercise
19 of the general and special powers granted in this section.

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