

HB 1243 - S COMM AMD

By Committee on Transportation

NOT ADOPTED 04/12/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 14.08.120 and 2021 c 106 s 1 are each amended to
4 read as follows:

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

11 (a) To vest authority for the construction, enlargement,
12 improvement, maintenance, equipment, operation, and regulation
13 thereof in an officer, a board, or body of the municipality by
14 ordinance or resolution that prescribes the powers and duties of the
15 officer, board, or body(~~(; and the municipality may also vest~~
16 ~~authority for industrial and commercial development in a municipal~~
17 ~~airport commission consisting of at least five resident taxpayers of~~
18 ~~the municipality to be appointed by the governing board of the~~
19 ~~municipality by an ordinance or resolution that includes (i) the~~
20 ~~terms of office, which may not exceed six years and which shall be~~
21 ~~staggered so that not more than three terms will expire in the same~~
22 ~~year, (ii) the method of appointment and filling vacancies, (iii) a~~
23 ~~provision that there shall be no compensation but may provide for a~~
24 ~~per diem of not to exceed twenty-five dollars per day plus travel~~
25 ~~expenses for time spent on commission business, (iv) the powers and~~
26 ~~duties of the commission, and (v) any other matters necessary to the~~
27 ~~exercise of the powers relating to industrial and commercial~~
28 ~~development)).~~

29 (i) The municipality may also vest authority for the
30 construction, enlargement, improvement, maintenance, equipment,
31 operation, management, industrial and commercial development, and
32 regulation thereof in a municipal airport commission through an

1 ordinance or resolution that includes: (A) The terms of office, which
2 may not exceed six years and which must be staggered so that not more
3 than three terms expire in the same year; (B) the method of
4 appointment and filling vacancies; (C) a provision that there is no
5 compensation, but the provision may provide for a per diem for time
6 spent on commission business of not more than \$25 per day plus travel
7 expenses or, in lieu of travel expenses when travel requires
8 overnight lodging, for a per diem payment of not more than the United
9 States general services administration's per diem rates; (D) the
10 powers and duties of the commission; and (E) any other matters
11 necessary to the exercise of the commission's powers. The expense of
12 the construction, enlargement, improvement, maintenance, equipment,
13 industrial and commercial development, operation, management, and
14 regulation are the responsibility of the municipality.

15 (ii) The commission consists of at least five members appointed
16 by the governing body of the municipality, subject to the following
17 conditions:

18 (A) Members must be residents of the municipality;

19 (B) A majority of the commissioners must have expertise in: The
20 aviation industry; business administration or operations; finance;
21 accounting; marketing; economic development; commercial real estate
22 development; engineering; planning and construction; law; utilities;
23 or other related experience from industries that have a logical nexus
24 with airport administration, operations, and development; and

25 (C) Members must agree to adhere to the ethical standards of
26 conduct adopted by the municipality or the existing municipal airport
27 commission.

28 (iii) A municipality may vest authority in a municipal airport
29 commission to apply for loans through the public use general aviation
30 airport loan program.

31 (b) To adopt and amend all needed rules, regulations, and
32 ordinances for the management, government, and use of any properties
33 under its control, whether within or outside the territorial limits
34 of the municipality; to provide fire protection for the airport,
35 including the acquisition and operation of fire protection equipment
36 and facilities, and the right to contract with any private body or
37 political subdivision of the state for the furnishing of such fire
38 protection; to appoint airport guards or police, with full police
39 powers; to fix by ordinance or resolution, as may be appropriate,
40 penalties for the violation of the rules, regulations, and

1 ordinances, and enforce those penalties in the same manner in which
2 penalties prescribed by other rules, regulations, and ordinances of
3 the municipality are enforced. For the purposes of such management
4 and government and direction of public use, that part of all
5 highways, roads, streets, avenues, boulevards, and territory that
6 adjoins the limits of any airport or restricted landing area acquired
7 or maintained under the provisions of this chapter is under like
8 control and management of the municipality. It may also adopt and
9 enact rules, regulations, and ordinances designed to safeguard the
10 public upon or beyond the limits of private airports or landing
11 strips within the municipality or its police jurisdiction against the
12 perils and hazards of instrumentalities used in aerial navigation.
13 Rules, regulations, and ordinances shall be published as provided by
14 general law or the charter of the municipality for the publication of
15 similar rules, regulations, and ordinances. They shall conform to and
16 be consistent with the laws of this state and the rules of the state
17 department of transportation and shall be kept in conformity, as
18 nearly as may be, with the then current federal legislation governing
19 aeronautics and the regulations duly promulgated thereunder and the
20 rules and standards issued from time to time pursuant thereto.

21 (c) To create a special airport fund, and provide that all
22 receipts from the operation of the airport be deposited in the fund,
23 which fund shall remain intact from year to year and may be pledged
24 to the payment of aviation bonds, or kept for future maintenance,
25 construction, or operation of airports or airport facilities.

26 (d) To lease airports or other air navigation facilities, or real
27 property acquired or set apart for airport purposes, to private
28 parties, any municipal or state government or the national
29 government, or any department thereof, for operation; to lease or
30 assign to private parties, any municipal or state government or the
31 national government, or any department thereof, for operation or use
32 consistent with the purposes of this chapter, space, area,
33 improvements, or equipment of such airports; to authorize its lessees
34 to construct, alter, repair, or improve the leased premises at the
35 cost of the lessee and to reimburse its lessees for such cost,
36 provided the cost is paid solely out of funds fully collected from
37 the airport's tenants; to sell any part of such airports, other air
38 navigation facilities or real property to any municipal or state
39 government, or to the United States or any department or
40 instrumentality thereof, for aeronautical purposes or purposes

1 incidental thereto, and to confer the privileges of concessions of
2 supplying upon its airports goods, commodities, things, services, and
3 facilities: PROVIDED, That in each case in so doing the public is not
4 deprived of its rightful, equal, and uniform use thereof.

5 (e) Acting through its governing body, to sell or lease any
6 property, real or personal, acquired for airport purposes and
7 belonging to the municipality, which, in the judgment of its
8 governing body, may not be required for aircraft landings, aircraft
9 takeoffs or related aeronautic purposes, in accordance with the laws
10 of this state, or the provisions of the charter of the municipality,
11 governing the sale or leasing of similar municipally owned property.
12 The municipal airport commission, if one has been organized and
13 appointed under (a) of this subsection, may lease any airport
14 property for aircraft landings, aircraft takeoffs, or related
15 aeronautic purposes. If there is a finding by the governing body of
16 the municipality that any airport property, real or personal, is not
17 required for aircraft landings, aircraft takeoffs, or related
18 aeronautic purposes, then the municipal airport commission may lease
19 such space, land, area, or improvements, or construct improvements,
20 or take leases back for financing purposes, grant concessions on such
21 space, land, area, or improvements, all for industrial or commercial
22 purposes, by private negotiation and under such terms and conditions
23 that seem just and proper to the municipal airport commission. Any
24 such lease of real property for aircraft manufacturing or aircraft
25 industrial purposes or to any manufacturer of aircraft or aircraft
26 parts or for any other business, manufacturing, or industrial purpose
27 or operation relating to, identified with, or in any way dependent
28 upon the use, operation, or maintenance of the airport, or for any
29 commercial or industrial purpose may be made for any period not to
30 exceed (~~(seventy-five)~~) 75 years, but any such lease of real property
31 made for a longer period than (~~(ten)~~) 10 years shall contain
32 provisions requiring the municipality and the lessee to permit the
33 rentals for each five-year period thereafter, to be readjusted at the
34 commencement of each such period if written request for readjustment
35 is given by either party to the other at least (~~(thirty)~~) 30 days
36 before the commencement of the five-year period for which the
37 readjustment is requested. If the parties cannot agree upon the
38 rentals for the five-year period, they shall submit to have the
39 disputed rentals for the period adjusted by arbitration. The lessee
40 shall pick one arbitrator, and the governing body of the municipality

1 shall pick one, and the two so chosen shall select a third. After a
2 review of all pertinent facts the board of arbitrators may increase
3 or decrease such rentals or continue the previous rate thereof.

4 The proceeds of the sale of any property the purchase price of
5 which was obtained by the sale of bonds shall be deposited in the
6 bond sinking fund. If all the proceeds of the sale are not needed to
7 pay the principal of bonds remaining unpaid, the remainder shall be
8 paid into the airport fund of the municipality. The proceeds of sales
9 of property the purchase price of which was paid from appropriations
10 of tax funds shall be paid into the airport fund of the municipality.

11 (f) To determine the charges or rental for the use of any
12 properties under its control and the charges for any services or
13 accommodations, and the terms and conditions under which such
14 properties may be used: PROVIDED, That in all cases the public is not
15 deprived of its rightful, equal, and uniform use of the property.
16 Charges shall be reasonable and uniform for the same class of service
17 and established with due regard to the property and improvements used
18 and the expense of operation to the municipality. The municipality
19 shall have and may enforce liens, as provided by law for liens and
20 enforcement thereof, for repairs to or improvement or storage or care
21 of any personal property, to enforce the payment of any such charges.
22 As used in this subsection (1)(f), the term "charges" does not refer
23 to any minimum labor standard imposed by a municipality pursuant to
24 subsection (2) of this section.

25 (g) To impose a customer facility charge upon customers of rental
26 car companies accessing the airport for the purposes of financing,
27 designing, constructing, operating, and maintaining consolidated
28 rental car facilities and common use transportation equipment and
29 facilities which are used to transport the customer between the
30 consolidated car rental facilities and other airport facilities. The
31 airport operator may require the rental car companies to collect the
32 facility charges, and any facility charges so collected shall be
33 deposited in a trust account for the benefit of the airport operator
34 and remitted at the direction of the airport operator, but no more
35 often than once per month. The charge shall be calculated on a per-
36 day basis. Facility charges may not exceed the reasonable costs of
37 financing, designing, constructing, operating, and maintaining the
38 consolidated car rental facilities and common use transportation
39 equipment and facilities and may not be used for any other purpose.
40 For the purposes of this subsection (1)(g), if an airport operator

1 makes use of its own funds to finance the consolidated rental car
2 facilities and common use transportation equipment and facilities,
3 the airport operator (i) is entitled to earn a rate of return on such
4 funds no greater than the interest rate that the airport operator
5 would pay to finance such facilities in the appropriate capital
6 market, provided that the airport operator establish the rate of
7 return in consultation with the rental car companies, and (ii) may
8 use the funds earned under (g)(i) of this subsection for purposes
9 other than those associated with the consolidated rental car
10 facilities and common use transportation equipment and facilities.

11 (h) To make airport property available for less than fair market
12 rental value under very limited conditions provided that prior to the
13 lease or contract authorizing such use the airport operator's board,
14 commission, or council has (i) adopted a policy that establishes that
15 such lease or other contract enhances the public acceptance of the
16 airport and serves the airport's business interest and (ii) adopted
17 procedures for approval of such lease or other contract.

18 (i) If the airport operator has adopted the policy and procedures
19 under (h) of this subsection, to lease or license the use of property
20 belonging to the municipality and acquired for airport purposes at
21 less than fair market rental value as long as the municipality's
22 council, board, or commission finds that the following conditions are
23 met:

24 (i) The lease or license of the subject property enhances public
25 acceptance of the airport in a community in the immediate area of the
26 airport;

27 (ii) The subject property is put to a desired public recreational
28 or other community use by the community in the immediate area of the
29 airport;

30 (iii) The desired community use and the community goodwill that
31 would be generated by such community use serves the business interest
32 of the airport in ways that can be articulated and demonstrated;

33 (iv) The desired community use does not adversely affect the
34 capacity, security, safety, or operations of the airport;

35 (v) At the time the community use is contemplated, the subject
36 property is not reasonably expected to be used by an aeronautical
37 tenant or otherwise be needed for airport operations in the
38 foreseeable future;

1 (vi) At the time the community use is contemplated, the subject
2 property would not reasonably be expected to produce more than de
3 minimis revenue;

4 (vii) If the subject property can be reasonably expected to
5 produce more than de minimis revenue, the community use is permitted
6 only where the revenue to be earned from the community use would
7 approximate the revenue that could be generated by an alternate use;

8 (viii) Leases for community use must not preclude reuse of the
9 subject property for airport purposes if, in the opinion of the
10 airport owner, reuse of the subject property would provide greater
11 benefits to the airport than continuation of the community use;

12 (ix) The airport owner ensures that airport revenue does not
13 support the capital or operating costs associated with the community
14 use;

15 (x) The lease or other contract for community use is not to a
16 for-profit organization or for the benefit of private individuals;

17 (xi) The lease or other contract for community use is subject to
18 the requirement that if the term of the lease is for a period that
19 exceeds (~~ten~~) 10 years, the lease must contain a provision allowing
20 for a readjustment of the rent every five years after the initial
21 (~~ten-year~~) 10-year term;

22 (xii) The lease or other contract for community use is subject to
23 the requirement that the term of the lease must not exceed (~~fifty~~)
24 50 years; and

25 (xiii) The lease or other contract for community use is subject
26 to the requirement that if the term of the lease exceeds one year,
27 the lease or other contract obligations must be secured by rental
28 insurance, bond, or other security satisfactory to the municipality's
29 board, council, or commission in an amount equal to at least one
30 year's rent, or as consistent with chapter 53.08 RCW. However, the
31 municipality's board, council, or commission may waive the rent
32 security requirement or lower the amount of the rent security
33 requirement for good cause.

34 (j) To exercise all powers necessarily incidental to the exercise
35 of the general and special powers granted in this section.

36 (2) (a) A municipality that controls or operates an airport having
37 had more than (~~twenty million~~) 20,000,000 annual commercial air
38 service passenger enplanements on average over the most recent seven
39 full calendar years that is located within the boundaries of a city
40 that has passed a local law or ordinance setting a minimum labor

1 standard that applies to certain employers operating or providing
2 goods and services at the airport is authorized to enact a minimum
3 labor standard that applies to employees working at the airport, so
4 long as the minimum labor standard meets, but does not exceed, the
5 minimum labor standard in the city's law or ordinance.

6 (b) A municipality's authority to establish a minimum labor
7 standard pursuant to (a) of this subsection may be imposed only on
8 employers that are excluded from the minimum labor standard
9 established by such city because the type of good or service provided
10 by the employer is expressly excluded in the text of the city's law
11 or ordinance.

12 (c) This section does not authorize a municipality to establish a
13 minimum labor standard for an employer who was excluded from the
14 city's law or ordinance because it is a certificated air carrier
15 performing services for itself or based on the employer's size or
16 number of employees.

17 (d) The authority granted under (a) of this subsection shall only
18 apply to employers who provide the goods or services at the airport
19 from facilities that are located on property owned by the
20 municipality and within the boundaries of the city that enacted the
21 minimum labor standard."

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22 On page 1, line 1 of the title, after "commissions;" strike the
23 remainder of the title and insert "and amending RCW 14.08.120."

EFFECT: Requires all municipal airport commission members to be residents of the municipality.

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