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SENATE BILL 5361

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State of Washington

54th Legislature

1995 Regular Session

By Senators Smith and Heavey

Read first time 01/20/95. Referred to Committee on Government Operations.

1 AN ACT Relating to areas impacted by aircraft noise; amending RCW  
2 53.54.020 and 53.54.030; adding new sections to chapter 53.54 RCW; and  
3 declaring an emergency.

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

5 **Sec. 1.** RCW 53.54.020 and 1984 c 193 s 1 are each amended to read  
6 as follows:

7 ~~((Prior to))~~ (1) Before initiating programs as authorized in this  
8 chapter, the port commission shall ((undertake the investigation and  
9 monitoring of)) investigate and monitor aircraft noise impacts to  
10 determine the nature and extent of the impacts, and shall develop  
11 aircraft noise exposure maps diagramming the Ldn (level day-night)  
12 contour of the noise-impacted areas. Investigation and monitoring must  
13 occur periodically as required under 14 C.F.R. Sec. 150.21(a), and the  
14 investigation and monitoring must conform to the methodologies accepted  
15 and recommended by the federal aviation administration for measuring  
16 noise impacts.

17 (2) The port commission shall adopt a program of noise impact  
18 abatement based upon the investigations and as amended periodically to  
19 conform to needs demonstrated by the monitoring programs~~((: PROVIDED,~~

1 That)). However, in no case may the port district undertake any of the  
2 programs of this chapter (~~(in an area which is more than six miles~~  
3 ~~beyond the paved end of any runway or more than one mile from the~~  
4 ~~centerline of any runway or from an imaginary runway centerline~~  
5 ~~extending six miles from the paved end of such runway. Such areas as~~  
6 ~~determined above, shall be known as "impacted areas")~~) outside a noise-  
7 impacted area. For purposes of this chapter, a noise-impacted area is  
8 defined as the area exposed to noise levels of 65 Ldn and greater as  
9 shown on the noise exposure map produced by the port commission and  
10 submitted to the federal aviation administration for the most recent  
11 year.

12 (3) As part of its noise-monitoring activities, the port district  
13 shall affix and maintain not less than six noise-monitoring devices to  
14 be evenly distributed within neighborhoods located outside the area  
15 designated 65 Ldn on the port's most recent noise exposure map. These  
16 devices shall monitor noise levels continuously throughout the year,  
17 and shall be moved only as necessary to be located outside of the 65  
18 Ldn contour. Data generated by these noise-monitoring devices shall be  
19 used by the port district in developing required updates to the noise  
20 contour maps.

21 **Sec. 2.** RCW 53.54.030 and 1993 c 150 s 1 are each amended to read  
22 as follows:

23 For the purposes of this chapter, in developing a remedial program,  
24 the port commission may (~~(utilize)~~) use one or more of the following  
25 programs:

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

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

1 ~~terms and conditions as the port district shall determine appropriate))~~  
2 administered in accordance with applicable federal regulations.

3 (3) Programs of soundproofing structures located within an impacted  
4 area. ~~((Such programs may be executed without regard to the ownership,~~  
5 ~~provided the owner waives damages and conveys an easement for the~~  
6 ~~operation of aircraft, and for noise and noise associated conditions~~  
7 ~~therewith, to the port district))~~ (a) When conducting noise programs  
8 for soundproofing structures located within an impacted area having  
9 noise levels below 75 Ldn, the port commission shall use the services  
10 of a Washington state professional engineer experienced in the field of  
11 acoustics to review the installation of noise insulation in each  
12 structure. The engineer shall certify that the interior noise levels  
13 in all habitable rooms of the soundproofed structure do not exceed 45  
14 Ldn over a continuously monitored two-week period. If the structure  
15 cannot be insulated to reduce the noise level below 45 Ldn, the port  
16 commission shall place the property on the list of properties eligible  
17 for acquisition under subsection (1) of this section. (b) The port  
18 commission shall not provide insulation for structures located in areas  
19 exposed to noise levels of 75 Ldn or greater. Noise compatibility  
20 programs must be administered in accordance with applicable state and  
21 federal statutes and regulations.

22 (4) Mortgage insurance of private owners of lands or improvements  
23 within such noise impacted area where such private owners are unable to  
24 obtain mortgage insurance solely because of noise impact. In this  
25 regard, the port district may establish reasonable regulations and may  
26 impose reasonable conditions and charges upon the granting of such  
27 mortgage insurance: PROVIDED, That such fees and charges shall at no  
28 time exceed fees established for federal mortgage insurance programs  
29 for like service.

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

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

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

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

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

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

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 53.54 RCW  
13 to read as follows:

14 When conducting appraisals of noise-impacted properties in  
15 conjunction with property acquisition or transaction assistance  
16 programs, the port commission shall use comparable properties located  
17 outside the impacted area when determining the fair market value of the  
18 subject property.

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

21 The legislature finds that agreements requiring property owners to  
22 waive damages caused by the operation of aircraft in exchange for noise  
23 mitigation programs are contrary to sound public policy. Therefore,  
24 the legislature declares agreements requiring persons to waive damages  
25 and convey easements for the operation of aircraft, and for noise and  
26 noise associated conditions, are void as against public policy and are  
27 of no force and effect.

28 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and shall take  
31 effect immediately.

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