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HOUSE BILL 1390

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Upthegrove, Schual-Berke, Cody, McDermott,  
Moeller, Santos and Hudgins

Read first time 01/21/2005. Referred to Committee on Transportation.

1            AN ACT Relating to determining long-term air transportation needs  
2 including airport siting; amending RCW 36.70A.200; adding a new section  
3 to chapter 47.06 RCW; adding a new section to chapter 47.80 RCW; adding  
4 a new chapter to Title 47 RCW; and making an appropriation.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds that airports are  
7 critical to the statewide transportation infrastructure. The 2000  
8 Washington Blue Ribbon Commission on Transportation reported that the  
9 state has no plans in place today that, if implemented, would yield  
10 results that would meet the long-term transportation needs of the  
11 state. The long-standing lack of consensus on how to solve  
12 Washington's transportation problems should be resolved through a  
13 reasonable process. The legislature intends the airport siting council  
14 to site airports that will ensure the long-term air transportation  
15 needs of Washington state are met and are in compliance with applicable  
16 public health, environmental, and land use laws.

17            NEW SECTION.    **Sec. 2.** (1) If the transportation commission  
18 declares an impasse under section 3 or 4 of this act, the governor

1 shall appoint an airport siting council. The council will consist of  
2 the following members: (a) The director of the department of  
3 community, trade, and economic development, or a designee; (b) a member  
4 of the transportation commission appointed by the governor, who shall  
5 be the chair of the council; (c) two members of the general public with  
6 special knowledge or background in airport issues, appointed by the  
7 governor; and (d) a member of a growth management hearings board,  
8 selected by the governor.

9 The member of a growth management hearings board must be a member  
10 of the growth management hearings board that hears appeals from actions  
11 taken under the Growth Management Act by counties not located in the  
12 region in which the proposed airport project under consideration is  
13 located or that is subject to the proposed transportation plan under  
14 consideration.

15 (2) The chair of the council may designate another councilmember to  
16 serve as the acting chair in the absence of the chair. The department  
17 of transportation shall provide all administrative and staff support  
18 for the council.

19 (3) The airport siting council appointed in response to a specific  
20 finding of an impasse under section 3 or 4 of this act must be  
21 disbanded once the governor has informed the council of his or her  
22 decision under section 6 of this act regarding the council's airport  
23 siting recommendations concerning the impasse. If, at a later date,  
24 the transportation commission declares another impasse, the governor  
25 shall appoint another airport siting council consistent with subsection  
26 (1) of this section.

27 NEW SECTION. **Sec. 3.** If the transportation commission finds that  
28 all of the following have occurred, it shall declare an impasse and  
29 refer the issue to the airport siting council: (1) A regional  
30 transportation plan does not satisfactorily address the state's  
31 interest as defined in RCW 47.06.040 with respect to planning for  
32 transportation needs through siting of an airport; (2) there has been  
33 ample time to address siting of an airport in the regional  
34 transportation plan and local comprehensive plans, but either no  
35 decision has been reached or the process has resulted in a decision  
36 that will not address the state's transportation needs as set forth in  
37 RCW 47.06.040; (3) the department of transportation has sought by all

1 reasonable means to encourage local governments and regional bodies to  
2 cooperate in a planning and decision-making process that addresses in  
3 a timely manner statewide airport siting needs; (4) the transportation  
4 commission has notified the local governments and regional bodies  
5 responsible for the regional transportation plan of its intent to  
6 declare an impasse; and (5) the local governments and regional bodies  
7 responsible for the regional transportation plan have failed to show  
8 cause within thirty days of such notification that an impasse should  
9 not be declared.

10 NEW SECTION. **Sec. 4.** The transportation commission must declare  
11 an impasse by August 1, 2005, regarding the search for a supplemental  
12 airport in the Puget Sound region or replacement for Seattle-Tacoma  
13 International Airport.

14 NEW SECTION. **Sec. 5.** (1) The airport siting council shall convene  
15 to make recommendations to the governor whenever the transportation  
16 commission passes a resolution declaring that an impasse exists in the  
17 siting of an airport of statewide significance, as provided in section  
18 3 of this act. The council has eighteen months after the date on which  
19 the transportation commission resolution is passed to make a  
20 recommendation regarding the siting of the airport of statewide  
21 significance and to communicate its recommendation in writing to the  
22 governor.

23 (2) The responsibility of the council is to make airport siting  
24 recommendations that reflect the interest of the entire state.  
25 Accordingly, the council is not limited to the options examined by the  
26 regional or local authority and may also consider alternative sites  
27 outside the region. In forming its recommendation the council shall  
28 review existing information and analyses regarding the siting issue,  
29 including both technical data and the decision-making process that  
30 failed to produce a resolution. The council may also hire staff for  
31 technical evaluation, analysis, and research associated with the  
32 preparation of its siting recommendation. The council may also  
33 consider relationships between the proposed facility and other existing  
34 or planned transportation facilities of statewide interest such as  
35 airports, rail services, ferry systems, or highways.

1        NEW SECTION.    **Sec. 6.**    (1) The governor must accept or reject the  
2 siting council's recommendation within sixty days.    If the governor  
3 rejects the siting council's recommendation, he or she may request the  
4 siting council to provide an alternative recommendation within thirty  
5 days.    The governor has another sixty days to accept or reject the  
6 siting council's alternative recommendation.    Once the governor has  
7 made a decision, the governor must inform in writing the members of the  
8 airport siting council, the transportation commission, the chair(s) of  
9 the legislative transportation committee, the county or city affected,  
10 and the regional transportation planning organization located in the  
11 region in which the transportation project will be sited.

12        (2) Subject to the conditions set forth in section 8(2) of this  
13 act, a decision by the governor binds the state and each of its  
14 political subdivisions, such as departments, agencies, divisions,  
15 bureaus, commissions, boards, counties, cities, towns, ports, and  
16 special districts, whether a political subdivision is a member of the  
17 council or not, regarding approval of a site and the construction and  
18 operation of a proposed airport.

19        NEW SECTION.    **Sec. 7.**    The legislature may invalidate the  
20 governor's decision if two-thirds of each house votes to object to his  
21 or her choice of sites.    The legislature must vote by the end of the  
22 legislative session convened after the governor's decision.    This will  
23 ensure that the legislature has at least one full legislative session  
24 for deliberation.

25        NEW SECTION.    **Sec. 8.**    (1) This chapter supersedes other laws for  
26 establishing the location of airports of statewide significance or  
27 rules adopted under state law for establishing the location of airports  
28 of statewide significance.

29        (2) However, the requirements of this chapter and rules adopted  
30 under it do not supersede the State Environmental Policy Act, the State  
31 Clean Air Act, the State Clean Water Act, the Shoreline Management Act,  
32 the laws relating to solid and hazardous waste management, and all the  
33 related portions of the Washington Administrative Code that implement  
34 these environmental laws.

1        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 47.06 RCW  
2 to read as follows:

3        The legislature declares to be of statewide significance any  
4 airports designated by the department as included in its plan as  
5 determined by its own functional classification system and criteria.  
6 The department shall assert leadership and cooperate with regional  
7 transportation planning organizations, counties, cities, transit  
8 agencies, public ports, and the private sector, by including in the  
9 state's multimodal transportation plan improvements to transportation  
10 facilities and services of statewide significance.    Improvements to  
11 facilities and services of statewide significance identified in the  
12 statewide multimodal transportation plan developed under RCW  
13 47.01.071(3) are considered essential public facilities under RCW  
14 36.70A.200.

15        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 47.80 RCW  
16 to read as follows:

17        The regional transportation planning organization must adopt a  
18 regional transportation plan that adequately implements the decision of  
19 the governor to site an airport of statewide significance, as provided  
20 in section 6 of this act.

21        **Sec. 11.**    RCW 36.70A.200 and 2002 c 68 s 2 are each amended to read  
22 as follows:

23        (1) The comprehensive plan of each county and city that is planning  
24 under RCW 36.70A.040 shall include a process for identifying and siting  
25 essential public facilities.    Essential public facilities include those  
26 facilities that are typically difficult to site, such as airports,  
27 state education facilities and state or regional transportation  
28 facilities as defined in RCW 47.06.140, state and local correctional  
29 facilities, solid waste handling facilities, and in-patient facilities  
30 including substance abuse facilities, mental health facilities, group  
31 homes, and secure community transition facilities as defined in RCW  
32 71.09.020.    If the process of siting an airport fails, the airport  
33 shall be sited by the process set forth in chapter 47.-- RCW (sections  
34 1 through 8 of this act).

35        (2) Each county and city planning under RCW 36.70A.040 shall, not  
36 later than September 1, 2002, establish a process, or amend its

1 existing process, for identifying and siting essential public  
2 facilities and adopt or amend its development regulations as necessary  
3 to provide for the siting of secure community transition facilities  
4 consistent with statutory requirements applicable to these facilities.

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

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

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

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

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

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

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

29 (b) A consideration for grants or loans provided under RCW  
30 43.17.250(2); or

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

33 NEW SECTION. **Sec. 12.** The sum of five hundred thousand dollars,  
34 or as much thereof as may be necessary, is appropriated for the  
35 biennium ending June 30, 2007, from the multimodal fund to the  
36 department of transportation for the purposes of section 5 of this act.

1        NEW SECTION.   **Sec. 13.**   Sections 1 through 8 of this act constitute  
2   a new chapter in Title 47 RCW.

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