

HB 1243 - S AMD 433
By Senator King

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) In a municipality with a population of 35,000 or greater,
19 members must be residents of the municipality;

20 (B) In a municipality with a population of fewer than 35,000, at
21 least a majority of members must be residents of the municipality or
22 the county in which the municipality is located, with any remaining
23 members residents of a county or counties adjoining the municipality
24 or the county in which the municipality is located;

25 (C) A majority of the commissioners must have expertise in: The
26 aviation industry; business administration or operations; finance;
27 accounting; marketing; economic development; commercial real estate
28 development; engineering; planning and construction; law; utilities;
29 or other related experience from industries that have a logical nexus
30 with airport administration, operations, and development;

31 (D) Immediate family members of the governing body of the
32 municipality, and current and former employees of the municipal
33 airport, may not be appointed to the commission; and

34 (E) Members must agree to adhere to the ethical standards of
35 conduct adopted by the municipality or the existing municipal airport
36 commission.

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

1 (b) To adopt and amend all needed rules, regulations, and
2 ordinances for the management, government, and use of any properties
3 under its control, whether within or outside the territorial limits
4 of the municipality; to provide fire protection for the airport,
5 including the acquisition and operation of fire protection equipment
6 and facilities, and the right to contract with any private body or
7 political subdivision of the state for the furnishing of such fire
8 protection; to appoint airport guards or police, with full police
9 powers; to fix by ordinance or resolution, as may be appropriate,
10 penalties for the violation of the rules, regulations, and
11 ordinances, and enforce those penalties in the same manner in which
12 penalties prescribed by other rules, regulations, and ordinances of
13 the municipality are enforced. For the purposes of such management
14 and government and direction of public use, that part of all
15 highways, roads, streets, avenues, boulevards, and territory that
16 adjoins the limits of any airport or restricted landing area acquired
17 or maintained under the provisions of this chapter is under like
18 control and management of the municipality. It may also adopt and
19 enact rules, regulations, and ordinances designed to safeguard the
20 public upon or beyond the limits of private airports or landing
21 strips within the municipality or its police jurisdiction against the
22 perils and hazards of instrumentalities used in aerial navigation.
23 Rules, regulations, and ordinances shall be published as provided by
24 general law or the charter of the municipality for the publication of
25 similar rules, regulations, and ordinances. They shall conform to and
26 be consistent with the laws of this state and the rules of the state
27 department of transportation and shall be kept in conformity, as
28 nearly as may be, with the then current federal legislation governing
29 aeronautics and the regulations duly promulgated thereunder and the
30 rules and standards issued from time to time pursuant thereto.

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

36 (d) To lease airports or other air navigation facilities, or real
37 property acquired or set apart for airport purposes, to private
38 parties, any municipal or state government or the national
39 government, or any department thereof, for operation; to lease or
40 assign to private parties, any municipal or state government or the

1 national government, or any department thereof, for operation or use
2 consistent with the purposes of this chapter, space, area,
3 improvements, or equipment of such airports; to authorize its lessees
4 to construct, alter, repair, or improve the leased premises at the
5 cost of the lessee and to reimburse its lessees for such cost,
6 provided the cost is paid solely out of funds fully collected from
7 the airport's tenants; to sell any part of such airports, other air
8 navigation facilities or real property to any municipal or state
9 government, or to the United States or any department or
10 instrumentality thereof, for aeronautical purposes or purposes
11 incidental thereto, and to confer the privileges of concessions of
12 supplying upon its airports goods, commodities, things, services, and
13 facilities: PROVIDED, That in each case in so doing the public is not
14 deprived of its rightful, equal, and uniform use thereof.

15 (e) Acting through its governing body, to sell or lease any
16 property, real or personal, acquired for airport purposes and
17 belonging to the municipality, which, in the judgment of its
18 governing body, may not be required for aircraft landings, aircraft
19 takeoffs or related aeronautic purposes, in accordance with the laws
20 of this state, or the provisions of the charter of the municipality,
21 governing the sale or leasing of similar municipally owned property.
22 The municipal airport commission, if one has been organized and
23 appointed under (a) of this subsection, may lease any airport
24 property for aircraft landings, aircraft takeoffs, or related
25 aeronautic purposes. If there is a finding by the governing body of
26 the municipality that any airport property, real or personal, is not
27 required for aircraft landings, aircraft takeoffs, or related
28 aeronautic purposes, then the municipal airport commission may lease
29 such space, land, area, or improvements, or construct improvements,
30 or take leases back for financing purposes, grant concessions on such
31 space, land, area, or improvements, all for industrial or commercial
32 purposes, by private negotiation and under such terms and conditions
33 that seem just and proper to the municipal airport commission. Any
34 such lease of real property for aircraft manufacturing or aircraft
35 industrial purposes or to any manufacturer of aircraft or aircraft
36 parts or for any other business, manufacturing, or industrial purpose
37 or operation relating to, identified with, or in any way dependent
38 upon the use, operation, or maintenance of the airport, or for any
39 commercial or industrial purpose may be made for any period not to
40 exceed (~~seventy-five~~) 75 years, but any such lease of real property

1 made for a longer period than (~~ten~~) 10 years shall contain
2 provisions requiring the municipality and the lessee to permit the
3 rentals for each five-year period thereafter, to be readjusted at the
4 commencement of each such period if written request for readjustment
5 is given by either party to the other at least (~~thirty~~) 30 days
6 before the commencement of the five-year period for which the
7 readjustment is requested. If the parties cannot agree upon the
8 rentals for the five-year period, they shall submit to have the
9 disputed rentals for the period adjusted by arbitration. The lessee
10 shall pick one arbitrator, and the governing body of the municipality
11 shall pick one, and the two so chosen shall select a third. After a
12 review of all pertinent facts the board of arbitrators may increase
13 or decrease such rentals or continue the previous rate thereof.

14 The proceeds of the sale of any property the purchase price of
15 which was obtained by the sale of bonds shall be deposited in the
16 bond sinking fund. If all the proceeds of the sale are not needed to
17 pay the principal of bonds remaining unpaid, the remainder shall be
18 paid into the airport fund of the municipality. The proceeds of sales
19 of property the purchase price of which was paid from appropriations
20 of tax funds shall be paid into the airport fund of the municipality.

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

35 (g) To impose a customer facility charge upon customers of rental
36 car companies accessing the airport for the purposes of financing,
37 designing, constructing, operating, and maintaining consolidated
38 rental car facilities and common use transportation equipment and
39 facilities which are used to transport the customer between the
40 consolidated car rental facilities and other airport facilities. The

1 airport operator may require the rental car companies to collect the
2 facility charges, and any facility charges so collected shall be
3 deposited in a trust account for the benefit of the airport operator
4 and remitted at the direction of the airport operator, but no more
5 often than once per month. The charge shall be calculated on a per-
6 day basis. Facility charges may not exceed the reasonable costs of
7 financing, designing, constructing, operating, and maintaining the
8 consolidated car rental facilities and common use transportation
9 equipment and facilities and may not be used for any other purpose.
10 For the purposes of this subsection (1)(g), if an airport operator
11 makes use of its own funds to finance the consolidated rental car
12 facilities and common use transportation equipment and facilities,
13 the airport operator (i) is entitled to earn a rate of return on such
14 funds no greater than the interest rate that the airport operator
15 would pay to finance such facilities in the appropriate capital
16 market, provided that the airport operator establish the rate of
17 return in consultation with the rental car companies, and (ii) may
18 use the funds earned under (g)(i) of this subsection for purposes
19 other than those associated with the consolidated rental car
20 facilities and common use transportation equipment and facilities.

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

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

34 (i) The lease or license of the subject property enhances public
35 acceptance of the airport in a community in the immediate area of the
36 airport;

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

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

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

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

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

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

17 (viii) Leases for community use must not preclude reuse of the
18 subject property for airport purposes if, in the opinion of the
19 airport owner, reuse of the subject property would provide greater
20 benefits to the airport than continuation of the community use;

21 (ix) The airport owner ensures that airport revenue does not
22 support the capital or operating costs associated with the community
23 use;

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

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

31 (xii) The lease or other contract for community use is subject to
32 the requirement that the term of the lease must not exceed (~~fifty~~)
33 50 years; and

34 (xiii) The lease or other contract for community use is subject
35 to the requirement that if the term of the lease exceeds one year,
36 the lease or other contract obligations must be secured by rental
37 insurance, bond, or other security satisfactory to the municipality's
38 board, council, or commission in an amount equal to at least one
39 year's rent, or as consistent with chapter 53.08 RCW. However, the
40 municipality's board, council, or commission may waive the rent

1 security requirement or lower the amount of the rent security
2 requirement for good cause.

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

5 (2) (a) A municipality that controls or operates an airport having
6 had more than (~~twenty million~~) 20,000,000 annual commercial air
7 service passenger enplanements on average over the most recent seven
8 full calendar years that is located within the boundaries of a city
9 that has passed a local law or ordinance setting a minimum labor
10 standard that applies to certain employers operating or providing
11 goods and services at the airport is authorized to enact a minimum
12 labor standard that applies to employees working at the airport, so
13 long as the minimum labor standard meets, but does not exceed, the
14 minimum labor standard in the city's law or ordinance.

15 (b) A municipality's authority to establish a minimum labor
16 standard pursuant to (a) of this subsection may be imposed only on
17 employers that are excluded from the minimum labor standard
18 established by such city because the type of good or service provided
19 by the employer is expressly excluded in the text of the city's law
20 or ordinance.

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

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

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By Senator King

ADOPTED 04/12/2023

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

EFFECT: (1) Prohibits the following persons from serving as
municipal airport commission members: (a) Immediate family members of
Code Rev/AI:eab 8 S-3188.2/23 2nd draft

the municipality's governing body; and (b) current and former airport employees.

(2) For municipalities with a population of fewer than 35,000, at least a majority of the members must be residents of the municipality or the county where the municipality is located.

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