

HOUSE BILL REPORT

E2SSB 5955

As Passed House:

March 1, 2024

Title: An act relating to mitigating harm and improving equity in large port districts.

Brief Description: Mitigating harm and improving equity in large port districts.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Hasegawa, Kauffman, Nguyen and Wilson, C.).

Brief History:

Committee Activity:

Local Government: 2/20/24, 2/21/24 [DP];

Capital Budget: 2/23/24, 2/26/24 [DP].

Floor Activity:

Passed House: 3/1/24, 83-13.

Brief Summary of Engrossed Second Substitute Bill

- Establishes, through July 1, 2029, a grant program managed by the Department of Commerce to provide assistance to port districts that undertake noise mitigation programs for expenses related to repairing or replacing noise mitigation equipment that is not working as intended, or to addressing hazards and structural damage to property that occurred due to previously installed noise mitigation equipment.
- Allows port districts that choose to conduct a program to repair or replace noise mitigation equipment that is not working as intended to either contract directly with building inspectors or professionals with relevant experience, or to enter into an interlocal agreement with a county to provide such individuals, for the purpose of conducting inspections to determine whether the equipment has caused hazards or structural damage to a property.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg, Griffey and Riccelli.

Staff: Kellen Wright (786-7134).

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: Do pass. Signed by 16 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Alvarado, Bateman, Farivar, Fosse, Kloba, Leavitt, Morgan, Orwall, Peterson, Reed, Rule, Shavers and Stearns.

Minority Report: Do not pass. Signed by 6 members: Representatives Steele, Assistant Ranking Minority Member; Christian, Eslick, Kretz, Sandlin and Waters.

Minority Report: Without recommendation. Signed by 4 members: Representatives Abbarno, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Maycumber and Mosbrucker.

Staff: Kelci Karl-Robinson (786-7116).

Background:

Port districts are special purpose districts empowered to, among other things, acquire, construct, maintain, operate, develop, and regulate airports. Individual port districts must be contained within a single county, and the boundaries of a port district may be coextensive with the county's boundaries.

Port districts in Washington that operate an airport serving more than 900 scheduled jet flights per day are authorized to undertake noise abatement programs to alleviate the impact of jet noise on the surrounding area. In 2023 only Seattle-Tacoma International Airport, operated by the Port of Seattle, served this many jet flights, averaging more than 1,000 jet flights per day. Spokane International Airport, by contrast, averaged fewer than 250 jet flights per day.

An aircraft noise abatement program can only be undertaken within an "impacted area." This area extends two miles from the centerline of any runway to a point 10 miles north of the paved north end of any runway, and to a point 13 miles south of the paved south end of any runway. If any portion of a property is within the impacted area, then the entire property is considered within the area.

Before undertaking a noise mitigation program, the port must investigate and monitor the

aircraft noise generated by the airport. Based on this, the port may adopt a program of abatement. This program must be amended periodically to conform to the needs demonstrated by the monitoring program. The abatement program may include, but is not limited to, acquiring affected property directly, assisting with transactions involving impacted properties, providing mortgage insurance, or soundproofing structures. In order to receive soundproofing assistance, the owner of the property must waive damages and convey an easement for the operation of aircraft and for the resulting noise to the port district.

A property can receive multiple different benefits, but can generally only receive each type of benefit once. The only exceptions apply for properties that: (1) are now subject to increased or differing noise impacts that would have afforded a different level of mitigation; or (2) contain a soundproofing installation, structure, or other type of sound mitigation equipment (collectively, "equipment") that was previously provided but that is determined, after an inspection, to be in need of repair or replacement. In either case, a port district may choose to provide a benefit for a second time. If the port district chooses to do so, and if the basis for the new benefit is that equipment needs to be repaired or replaced, the port district must work with a state certified building inspector to determine if the failure of the equipment has resulted in additional hazards or damage to the property.

A port district may only finance noise abatement programs with the proceeds of federal grants or loans, revenues generated by abatement programs, airport revenues, and bonds based upon such revenues.

Summary of Bill:

The Department of Commerce (Department) must administer a grant program to provide assistance to port districts that undertake noise mitigation programs for expenses related to repairing or replacing equipment that is no longer working as intended, or to addressing hazards or structural damage to a property that has occurred because of the prior installation of equipment. The Department must establish criteria for the grant program, and must select the recipients for grants. The Department must publish an annual report on its website detailing the grants made, and:

- the number of building inspectors or other professionals contracted with;
- the number of inspections conducted;
- the number of properties that received new or improved equipment after an inspection;
- the number of properties that received funds to address hazards or damages found by an inspection to be associated with the installation of equipment; and
- the number of inspected properties where no repairs occurred, and the reasons why.

The grant program is funded through the port district equity fund. This fund consists of appropriations made by the Legislature, contributions from local governments and port districts, and private contributions. Funds from the account can only be used to provide

grants to port districts through the grant program operated by the Department. The fund is managed by the Department, and only the Department may authorize an expenditure.

A port district may commit to matching half of the funds annually provided to the grant program through the port district equity fund from revenue that is not subject to federal airport revenue use restrictions.

The revenue sources that a port district can use to finance a noise abatement program includes proceeds from the Department's grant program.

The grant program ends July 1, 2029. The Joint Legislative Audit and Review Committee must conduct a review of the grant program by July 1, 2028, and must include in its review the number of homes that have received remediation since June 5, 2024, and the number of homes still in need of remediation.

A port district that chooses to provide a second noise mitigation program benefit to a property on the basis that previously provided equipment is no longer working as intended may contract with building inspectors or other professionals with experience in sound testing, or in door or window installation, to determine if the failure of the equipment has resulted in additional hazards or damage to the property. Alternatively, the port district may enter into an interlocal agreement with the county in which the port is located to contract for the provision of such building inspectors or professionals. A port district must reimburse the county for any expenses the county incurs related to such an agreement. Funds from the Department's grant program may be used for this reimbursement.

If an inspection reveals that a property's equipment is no longer working as intended, the port district must apply to the Department's grant program for resources to repair or replace the equipment. Similarly, if an inspection confirms that additional hazards or structural damage has occurred because of the prior installation of equipment on the property, the port district must apply to the Department's grant program for resources to address the hazards or damage.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Local Government):

(In support) This bill has been scoped down so that it just addresses one specific problem in airport communities. This has resulted in a better bill. In these airport communities, people in the flight path of the airport have had noise mitigation packages fail, with resulting issues

with mold growth, leaky windows, and other serious issues with their houses. Many of the people in these houses are elderly, low-income, or people of color. Addressing the problems with these mitigation packages is an equitable justice issue. This bill will encourage partnerships between the Port of Seattle and others who would like to contribute to the port equity fund. There would be no set requirement for a contribution, but we should encourage a significant initial contribution to be able to undertake building inspections and determine how many houses may have noise mitigation packages in need of repair or replacement. This is a very meaningful step for the community, as members of the community are suffering and this bill will make a huge difference to them. There are about 9,500 homes with mitigation packages, some of which are failing. Some of these residents can afford to fix the issues with the failed packages. About one-third of the middle-income housing in Des Moines have mitigation packages, and this bill will help to protect that housing and the community. Sound mitigation packages can be as important to health and safety as plumbing and grounded outlets. Residents who live near the airport are impacted daily by the airport, and we need to be fair to them. When the port provided noise mitigation packages, homeowners were required to waive their rights related to the packages and to grant a navigation easement. When the companies that supplied the failed packages went bankrupt, the homeowners had no recourse. The state has a responsibility to grow economically, but we need to show that we care about impacted citizens and will take action to protect them. This bill is an important first step toward addressing critical health issues.

(Opposed) The airport does cause impacts, but they extend far beyond the area that is covered in the bill. This bill does not address others who are impacted. The bill is inequitable because the polluters should pay for the harm caused, rather than taxpayers. The goal of this bill can be accomplished through federal rules.

Staff Summary of Public Testimony (Capital Budget):

(In support) Cities, community leaders, and the airport have reached an agreement on this legislation. The city of SeaTac is impacted by the international airport that serves the entire state and the surrounding homes should receive a sound insulation system. Many years ago, homes received a port package, which includes triple pane windows, insulation, and other things to mitigate the noise. These packages have failed, and the windows are infested with mold. The window contractor went bankrupt shortly after the installations, resulting in there being no warranty. 350 inspections have been conducted and confirmed that the failures are not due to normal wear and tear. The community surrounding the airport have lower incomes and the cost to replace the packages is unaffordable for many homeowners. The federal revenue source is unable to be used to address these issues, so the bill creates the Equity Fund to allow state and local contributions to assist in replacing the port packages. The port should conduct inspections of all homes impacted to determine an equitable distribution of the grants. A second major commercial airport has not been sited in Washington due to the fact that the citizens do not feel like they are protected from airport impacts, which the bill seeks to change.

(Opposed) SeaTac airport noise and air pollution extend beyond the impacted area defined in the bill. Northwest Seattle is an impacted area but does not benefit from the program. The airline polluters should pay and not the taxpayers. The federal rule should be amended.

Persons Testifying (Local Government): (In support) Senator Karen Keiser, prime sponsor; Kyle Moore, City of SeaTac; Traci Buxton, City of Des Moines; JC Harris, SeaTacNoise.Info; Steve Edmiston; and Maria Batayola, Beacon Hill Council Chair.

(Opposed) David Ortman.

Persons Testifying (Capital Budget): (In support) Kyle Moore, City of SeaTac; Traci Buxton, City of Des Moines; JC Harris, Seatac Noise Information; Denise Utley; and Representative Tina Orwall.

(Opposed) David Ortman.

Persons Signed In To Testify But Not Testifying (Local Government): Heather Morton; James Payne; and John Worthington.

Persons Signed In To Testify But Not Testifying (Capital Budget): None.