

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1243

Chapter 247, Laws of 2023

68th Legislature
2023 Regular Session

MUNICIPAL AIRPORT COMMISSIONS—POWERS, DUTIES, AND MEMBERSHIP

EFFECTIVE DATE: July 23, 2023

Passed by the House April 14, 2023
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 12, 2023
Yeas 46 Nays 3

DENNY HECK

President of the Senate

Approved May 4, 2023 10:18 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1243** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 4, 2023

**Secretary of State
State of Washington**

HOUSE BILL 1243

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington **68th Legislature** **2023 Regular Session**

By Representatives Dent, Riccelli, Christian, and Eslick

Read first time 01/11/23. Referred to Committee on Local Government.

1 AN ACT Relating to municipal airport commissions; and amending
2 RCW 14.08.120.

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

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

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

12 (a) To vest authority for the construction, enlargement,
13 improvement, maintenance, equipment, operation, and regulation
14 thereof in an officer, a board, or body of the municipality by
15 ordinance or resolution that prescribes the powers and duties of the
16 officer, board, or body(~~;~~ and the municipality may also vest
17 authority for industrial and commercial development in a municipal
18 airport commission consisting of at least five resident taxpayers of
19 the municipality to be appointed by the governing board of the
20 municipality by an ordinance or resolution that includes (i) the
21 terms of office, which may not exceed six years and which shall be

1 ~~staggered so that not more than three terms will expire in the same~~
2 ~~year, (ii) the method of appointment and filling vacancies, (iii) a~~
3 ~~provision that there shall be no compensation but may provide for a~~
4 ~~per diem of not to exceed twenty-five dollars per day plus travel~~
5 ~~expenses for time spent on commission business, (iv) the powers and~~
6 ~~duties of the commission, and (v) any other matters necessary to the~~
7 ~~exercise of the powers relating to industrial and commercial~~
8 ~~development)).~~

9 (i) The municipality may also vest authority for the
10 construction, enlargement, improvement, maintenance, equipment,
11 operation, management, industrial and commercial development, and
12 regulation thereof in a municipal airport commission through an
13 ordinance or resolution that includes: (A) The terms of office, which
14 may not exceed six years and which must be staggered so that not more
15 than three terms expire in the same year; (B) the method of
16 appointment and filling vacancies; (C) a provision that there is no
17 compensation, but the provision may provide for a per diem for time
18 spent on commission business of not more than \$25 per day plus travel
19 expenses or, in lieu of travel expenses when travel requires
20 overnight lodging, for a per diem payment of not more than the United
21 States general services administration's per diem rates; (D) the
22 powers and duties of the commission; and (E) any other matters
23 necessary to the exercise of the commission's powers. The expense of
24 the construction, enlargement, improvement, maintenance, equipment,
25 industrial and commercial development, operation, management, and
26 regulation are the responsibility of the municipality.

27 (ii) The commission consists of at least five members appointed
28 by the governing body of the municipality, subject to the following
29 conditions:

30 (A) In a municipality with a population of 35,000 or greater,
31 members must be residents of the municipality;

32 (B) In a municipality with a population of fewer than 35,000, at
33 least a majority of members must be residents of the municipality or
34 the county in which the municipality is located, with any remaining
35 members residents of a county or counties adjoining the municipality
36 or the county in which the municipality is located;

37 (C) A majority of the commissioners must have expertise in: The
38 aviation industry; business administration or operations; finance;
39 accounting; marketing; economic development; commercial real estate
40 development; engineering; planning and construction; law; utilities;

1 or other related experience from industries that have a logical nexus
2 with airport administration, operations, and development;

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

6 (E) Members must agree to adhere to the ethical standards of
7 conduct adopted by the municipality or the existing municipal airport
8 commission.

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

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

1 aeronautics and the regulations duly promulgated thereunder and the
2 rules and standards issued from time to time pursuant thereto.

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

8 (d) To lease airports or other air navigation facilities, or real
9 property acquired or set apart for airport purposes, to private
10 parties, any municipal or state government or the national
11 government, or any department thereof, for operation; to lease or
12 assign to private parties, any municipal or state government or the
13 national government, or any department thereof, for operation or use
14 consistent with the purposes of this chapter, space, area,
15 improvements, or equipment of such airports; to authorize its lessees
16 to construct, alter, repair, or improve the leased premises at the
17 cost of the lessee and to reimburse its lessees for such cost,
18 provided the cost is paid solely out of funds fully collected from
19 the airport's tenants; to sell any part of such airports, other air
20 navigation facilities or real property to any municipal or state
21 government, or to the United States or any department or
22 instrumentality thereof, for aeronautical purposes or purposes
23 incidental thereto, and to confer the privileges of concessions of
24 supplying upon its airports goods, commodities, things, services, and
25 facilities: PROVIDED, That in each case in so doing the public is not
26 deprived of its rightful, equal, and uniform use thereof.

27 (e) Acting through its governing body, to sell or lease any
28 property, real or personal, acquired for airport purposes and
29 belonging to the municipality, which, in the judgment of its
30 governing body, may not be required for aircraft landings, aircraft
31 takeoffs or related aeronautic purposes, in accordance with the laws
32 of this state, or the provisions of the charter of the municipality,
33 governing the sale or leasing of similar municipally owned property.
34 The municipal airport commission, if one has been organized and
35 appointed under (a) of this subsection, may lease any airport
36 property for aircraft landings, aircraft takeoffs, or related
37 aeronautic purposes. If there is a finding by the governing body of
38 the municipality that any airport property, real or personal, is not
39 required for aircraft landings, aircraft takeoffs, or related
40 aeronautic purposes, then the municipal airport commission may lease

1 such space, land, area, or improvements, or construct improvements,
2 or take leases back for financing purposes, grant concessions on such
3 space, land, area, or improvements, all for industrial or commercial
4 purposes, by private negotiation and under such terms and conditions
5 that seem just and proper to the municipal airport commission. Any
6 such lease of real property for aircraft manufacturing or aircraft
7 industrial purposes or to any manufacturer of aircraft or aircraft
8 parts or for any other business, manufacturing, or industrial purpose
9 or operation relating to, identified with, or in any way dependent
10 upon the use, operation, or maintenance of the airport, or for any
11 commercial or industrial purpose may be made for any period not to
12 exceed (~~(seventy-five)~~) 75 years, but any such lease of real property
13 made for a longer period than (~~(ten)~~) 10 years shall contain
14 provisions requiring the municipality and the lessee to permit the
15 rentals for each five-year period thereafter, to be readjusted at the
16 commencement of each such period if written request for readjustment
17 is given by either party to the other at least (~~(thirty)~~) 30 days
18 before the commencement of the five-year period for which the
19 readjustment is requested. If the parties cannot agree upon the
20 rentals for the five-year period, they shall submit to have the
21 disputed rentals for the period adjusted by arbitration. The lessee
22 shall pick one arbitrator, and the governing body of the municipality
23 shall pick one, and the two so chosen shall select a third. After a
24 review of all pertinent facts the board of arbitrators may increase
25 or decrease such rentals or continue the previous rate thereof.

26 The proceeds of the sale of any property the purchase price of
27 which was obtained by the sale of bonds shall be deposited in the
28 bond sinking fund. If all the proceeds of the sale are not needed to
29 pay the principal of bonds remaining unpaid, the remainder shall be
30 paid into the airport fund of the municipality. The proceeds of sales
31 of property the purchase price of which was paid from appropriations
32 of tax funds shall be paid into the airport fund of the municipality.

33 (f) To determine the charges or rental for the use of any
34 properties under its control and the charges for any services or
35 accommodations, and the terms and conditions under which such
36 properties may be used: PROVIDED, That in all cases the public is not
37 deprived of its rightful, equal, and uniform use of the property.
38 Charges shall be reasonable and uniform for the same class of service
39 and established with due regard to the property and improvements used
40 and the expense of operation to the municipality. The municipality

1 shall have and may enforce liens, as provided by law for liens and
2 enforcement thereof, for repairs to or improvement or storage or care
3 of any personal property, to enforce the payment of any such charges.
4 As used in this subsection (1)(f), the term "charges" does not refer
5 to any minimum labor standard imposed by a municipality pursuant to
6 subsection (2) of this section.

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

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

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

7 (i) The lease or license of the subject property enhances public
8 acceptance of the airport in a community in the immediate area of the
9 airport;

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

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

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

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

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

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

29 (viii) Leases for community use must not preclude reuse of the
30 subject property for airport purposes if, in the opinion of the
31 airport owner, reuse of the subject property would provide greater
32 benefits to the airport than continuation of the community use;

33 (ix) The airport owner ensures that airport revenue does not
34 support the capital or operating costs associated with the community
35 use;

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

38 (xi) The lease or other contract for community use is subject to
39 the requirement that if the term of the lease is for a period that
40 exceeds (~~ten~~) 10 years, the lease must contain a provision allowing

1 for a readjustment of the rent every five years after the initial
2 (~~ten-year~~) 10-year term;

3 (xii) The lease or other contract for community use is subject to
4 the requirement that the term of the lease must not exceed (~~fifty~~)
5 50 years; and

6 (xiii) The lease or other contract for community use is subject
7 to the requirement that if the term of the lease exceeds one year,
8 the lease or other contract obligations must be secured by rental
9 insurance, bond, or other security satisfactory to the municipality's
10 board, council, or commission in an amount equal to at least one
11 year's rent, or as consistent with chapter 53.08 RCW. However, the
12 municipality's board, council, or commission may waive the rent
13 security requirement or lower the amount of the rent security
14 requirement for good cause.

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

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

27 (b) A municipality's authority to establish a minimum labor
28 standard pursuant to (a) of this subsection may be imposed only on
29 employers that are excluded from the minimum labor standard
30 established by such city because the type of good or service provided
31 by the employer is expressly excluded in the text of the city's law
32 or ordinance.

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

38 (d) The authority granted under (a) of this subsection shall only
39 apply to employers who provide the goods or services at the airport
40 from facilities that are located on property owned by the

1 municipality and within the boundaries of the city that enacted the
2 minimum labor standard.

Passed by the House April 14, 2023.

Passed by the Senate April 12, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 4, 2023.

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