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**SUBSTITUTE HOUSE BILL 1712**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** House Transportation (originally sponsored by Representatives Dent, Riccelli, Dufault, Eslick, and Griffey)

READ FIRST TIME 02/07/22.

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 two members must be residents of the municipality or the county  
34 in which the municipality is located, with any remaining members  
35 residents of a county or counties adjoining the municipality or the  
36 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; and

3 (D) Members must agree to adhere to the ethical standards of  
4 conduct adopted by the municipality or the existing municipal airport  
5 commission.

6 (iii) The governing body of a municipality with an existing  
7 municipal airport commission must pass a resolution within two years  
8 from the effective date of this section and every two years  
9 thereafter to reauthorize the municipal airport commission. A  
10 municipality that creates a municipal airport commission after the  
11 effective date of this section must reauthorize the municipal airport  
12 commission every two years thereafter. A municipal airport commission  
13 is dissolved if the governing authority does not pass a resolution as  
14 required by this subsection. Any moneys or funds of the dissolved  
15 commission must be used, to the extent necessary, for the payment or  
16 settlement of any outstanding obligations or liabilities of the  
17 dissolved commission. Thereafter, any remaining moneys, funds, or  
18 property become the property of the municipality that created the  
19 commission.

20 (iv) A municipality may vest authority in a municipal airport  
21 commission to apply for loans through the public use general aviation  
22 airport loan program.

23 (b) To adopt and amend all needed rules, regulations, and  
24 ordinances for the management, government, and use of any properties  
25 under its control, whether within or outside the territorial limits  
26 of the municipality; to provide fire protection for the airport,  
27 including the acquisition and operation of fire protection equipment  
28 and facilities, and the right to contract with any private body or  
29 political subdivision of the state for the furnishing of such fire  
30 protection; to appoint airport guards or police, with full police  
31 powers; to fix by ordinance or resolution, as may be appropriate,  
32 penalties for the violation of the rules, regulations, and  
33 ordinances, and enforce those penalties in the same manner in which  
34 penalties prescribed by other rules, regulations, and ordinances of  
35 the municipality are enforced. For the purposes of such management  
36 and government and direction of public use, that part of all  
37 highways, roads, streets, avenues, boulevards, and territory that  
38 adjoins the limits of any airport or restricted landing area acquired  
39 or maintained under the provisions of this chapter is under like  
40 control and management of the municipality. It may also adopt and

1 enact rules, regulations, and ordinances designed to safeguard the  
2 public upon or beyond the limits of private airports or landing  
3 strips within the municipality or its police jurisdiction against the  
4 perils and hazards of instrumentalities used in aerial navigation.  
5 Rules, regulations, and ordinances shall be published as provided by  
6 general law or the charter of the municipality for the publication of  
7 similar rules, regulations, and ordinances. They shall conform to and  
8 be consistent with the laws of this state and the rules of the state  
9 department of transportation and shall be kept in conformity, as  
10 nearly as may be, with the then current federal legislation governing  
11 aeronautics and the regulations duly promulgated thereunder and the  
12 rules and standards issued from time to time pursuant thereto.

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

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

37 (e) Acting through its governing body, to sell or lease any  
38 property, real or personal, acquired for airport purposes and  
39 belonging to the municipality, which, in the judgment of its  
40 governing body, may not be required for aircraft landings, aircraft

1 takeoffs or related aeronautic purposes, in accordance with the laws  
2 of this state, or the provisions of the charter of the municipality,  
3 governing the sale or leasing of similar municipally owned property.  
4 The municipal airport commission, if one has been organized and  
5 appointed under (a) of this subsection, may lease any airport  
6 property for aircraft landings, aircraft takeoffs, or related  
7 aeronautic purposes. If there is a finding by the governing body of  
8 the municipality that any airport property, real or personal, is not  
9 required for aircraft landings, aircraft takeoffs, or related  
10 aeronautic purposes, then the municipal airport commission may lease  
11 such space, land, area, or improvements, or construct improvements,  
12 or take leases back for financing purposes, grant concessions on such  
13 space, land, area, or improvements, all for industrial or commercial  
14 purposes, by private negotiation and under such terms and conditions  
15 that seem just and proper to the municipal airport commission. Any  
16 such lease of real property for aircraft manufacturing or aircraft  
17 industrial purposes or to any manufacturer of aircraft or aircraft  
18 parts or for any other business, manufacturing, or industrial purpose  
19 or operation relating to, identified with, or in any way dependent  
20 upon the use, operation, or maintenance of the airport, or for any  
21 commercial or industrial purpose that has been made before the  
22 effective date of this section may be made for any period not (~~to~~  
23 ~~exceed seventy-five years, but any~~) exceeding 75 years, while such a  
24 lease made after the effective date of this section may not exceed 50  
25 years. Any such lease of real property made for a longer period than  
26 (~~ten~~) 10 years shall contain provisions requiring the municipality  
27 and the lessee to permit the rentals for each five-year period  
28 thereafter, to be readjusted at the commencement of each such period  
29 if written request for readjustment is given by either party to the  
30 other at least (~~thirty~~) 30 days before the commencement of the  
31 five-year period for which the readjustment is requested. If the  
32 parties cannot agree upon the rentals for the five-year period, they  
33 shall submit to have the disputed rentals for the period adjusted by  
34 arbitration. The lessee shall pick one arbitrator, and the governing  
35 body of the municipality shall pick one, and the two so chosen shall  
36 select a third. After a review of all pertinent facts the board of  
37 arbitrators may increase or decrease such rentals or continue the  
38 previous rate thereof.

39 The proceeds of the sale of any property the purchase price of  
40 which was obtained by the sale of bonds shall be deposited in the

1 bond sinking fund. If all the proceeds of the sale are not needed to  
2 pay the principal of bonds remaining unpaid, the remainder shall be  
3 paid into the airport fund of the municipality. The proceeds of sales  
4 of property the purchase price of which was paid from appropriations  
5 of tax funds shall be paid into the airport fund of the municipality.

6 (f) To determine the charges or rental for the use of any  
7 properties under its control and the charges for any services or  
8 accommodations, and the terms and conditions under which such  
9 properties may be used: PROVIDED, That in all cases the public is not  
10 deprived of its rightful, equal, and uniform use of the property.  
11 Charges shall be reasonable and uniform for the same class of service  
12 and established with due regard to the property and improvements used  
13 and the expense of operation to the municipality. The municipality  
14 shall have and may enforce liens, as provided by law for liens and  
15 enforcement thereof, for repairs to or improvement or storage or care  
16 of any personal property, to enforce the payment of any such charges.  
17 As used in this subsection (1)(f), the term "charges" does not refer  
18 to any minimum labor standard imposed by a municipality pursuant to  
19 subsection (2) of this section.

20 (g) To impose a customer facility charge upon customers of rental  
21 car companies accessing the airport for the purposes of financing,  
22 designing, constructing, operating, and maintaining consolidated  
23 rental car facilities and common use transportation equipment and  
24 facilities which are used to transport the customer between the  
25 consolidated car rental facilities and other airport facilities. The  
26 airport operator may require the rental car companies to collect the  
27 facility charges, and any facility charges so collected shall be  
28 deposited in a trust account for the benefit of the airport operator  
29 and remitted at the direction of the airport operator, but no more  
30 often than once per month. The charge shall be calculated on a per-  
31 day basis. Facility charges may not exceed the reasonable costs of  
32 financing, designing, constructing, operating, and maintaining the  
33 consolidated car rental facilities and common use transportation  
34 equipment and facilities and may not be used for any other purpose.  
35 For the purposes of this subsection (1)(g), if an airport operator  
36 makes use of its own funds to finance the consolidated rental car  
37 facilities and common use transportation equipment and facilities,  
38 the airport operator (i) is entitled to earn a rate of return on such  
39 funds no greater than the interest rate that the airport operator  
40 would pay to finance such facilities in the appropriate capital

1 market, provided that the airport operator establish the rate of  
2 return in consultation with the rental car companies, and (ii) may  
3 use the funds earned under (g)(i) of this subsection for purposes  
4 other than those associated with the consolidated rental car  
5 facilities and common use transportation equipment and facilities.

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

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

19 (i) The lease or license of the subject property enhances public  
20 acceptance of the airport in a community in the immediate area of the  
21 airport;

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

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

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

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

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

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

1 (viii) Leases for community use must not preclude reuse of the  
2 subject property for airport purposes if, in the opinion of the  
3 airport owner, reuse of the subject property would provide greater  
4 benefits to the airport than continuation of the community use;

5 (ix) The airport owner ensures that airport revenue does not  
6 support the capital or operating costs associated with the community  
7 use;

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

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

15 (xii) The lease or other contract for community use is subject to  
16 the requirement that the term of the lease must not exceed (~~fifty~~)  
17 50 years; and

18 (xiii) The lease or other contract for community use is subject  
19 to the requirement that if the term of the lease exceeds one year,  
20 the lease or other contract obligations must be secured by rental  
21 insurance, bond, or other security satisfactory to the municipality's  
22 board, council, or commission in an amount equal to at least one  
23 year's rent, or as consistent with chapter 53.08 RCW. However, the  
24 municipality's board, council, or commission may waive the rent  
25 security requirement or lower the amount of the rent security  
26 requirement for good cause.

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

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

39 (b) A municipality's authority to establish a minimum labor  
40 standard pursuant to (a) of this subsection may be imposed only on



1 employers that are excluded from the minimum labor standard  
2 established by such city because the type of good or service provided  
3 by the employer is expressly excluded in the text of the city's law  
4 or ordinance.

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

10 (d) The authority granted under (a) of this subsection shall only  
11 apply to employers who provide the goods or services at the airport  
12 from facilities that are located on property owned by the  
13 municipality and within the boundaries of the city that enacted the  
14 minimum labor standard.

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