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HOUSE BILL 1243

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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 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) A municipality may vest authority in a municipal airport  
7 commission to apply for loans through the public use general aviation  
8 airport loan program.

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

39 (c) To create a special airport fund, and provide that all  
40 receipts from the operation of the airport be deposited in the fund,

1 which fund shall remain intact from year to year and may be pledged  
2 to the payment of aviation bonds, or kept for future maintenance,  
3 construction, or operation of airports or airport facilities.

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

23 (e) Acting through its governing body, to sell or lease any  
24 property, real or personal, acquired for airport purposes and  
25 belonging to the municipality, which, in the judgment of its  
26 governing body, may not be required for aircraft landings, aircraft  
27 takeoffs or related aeronautic purposes, in accordance with the laws  
28 of this state, or the provisions of the charter of the municipality,  
29 governing the sale or leasing of similar municipally owned property.  
30 The municipal airport commission, if one has been organized and  
31 appointed under (a) of this subsection, may lease any airport  
32 property for aircraft landings, aircraft takeoffs, or related  
33 aeronautic purposes. If there is a finding by the governing body of  
34 the municipality that any airport property, real or personal, is not  
35 required for aircraft landings, aircraft takeoffs, or related  
36 aeronautic purposes, then the municipal airport commission may lease  
37 such space, land, area, or improvements, or construct improvements,  
38 or take leases back for financing purposes, grant concessions on such  
39 space, land, area, or improvements, all for industrial or commercial  
40 purposes, by private negotiation and under such terms and conditions

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

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

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

1 to any minimum labor standard imposed by a municipality pursuant to  
2 subsection (2) of this section.

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

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

36 (i) If the airport operator has adopted the policy and procedures  
37 under (h) of this subsection, to lease or license the use of property  
38 belonging to the municipality and acquired for airport purposes at  
39 less than fair market rental value as long as the municipality's

1 council, board, or commission finds that the following conditions are  
2 met:

3 (i) The lease or license of the subject property enhances public  
4 acceptance of the airport in a community in the immediate area of the  
5 airport;

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

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

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

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

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

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

25 (viii) Leases for community use must not preclude reuse of the  
26 subject property for airport purposes if, in the opinion of the  
27 airport owner, reuse of the subject property would provide greater  
28 benefits to the airport than continuation of the community use;

29 (ix) The airport owner ensures that airport revenue does not  
30 support the capital or operating costs associated with the community  
31 use;

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

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

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

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

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

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

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

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

36 (d) The authority granted under (a) of this subsection shall only  
37 apply to employers who provide the goods or services at the airport  
38 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.

--- **END** ---