

CERTIFICATION OF ENROLLMENT

SENATE BILL 5385

Chapter 106, Laws of 2021

67th Legislature
2021 Regular Session

MUNICIPAL AIRPORTS—MINIMUM LABOR STANDARDS—SIZE

EFFECTIVE DATE: July 25, 2021

Passed by the Senate March 2, 2021
Yeas 36 Nays 13

DENNY HECK

President of the Senate

Passed by the House April 5, 2021
Yeas 57 Nays 41

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved April 16, 2021 11:01 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5385** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

April 16, 2021

**Secretary of State
State of Washington**

SENATE BILL 5385

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By Senators Keiser, Saldaña, and Nguyen

Read first time 01/29/21. Referred to Committee on Labor, Commerce & Tribal Affairs.

1 AN ACT Relating to the size of the airport a municipality must
2 control or operate for that municipality to enact minimum labor
3 standards for employees at the airport; and amending RCW 14.08.120.

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

5 **Sec. 1.** RCW 14.08.120 and 2020 c 96 s 1 are each amended to read
6 as follows:

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

13 (a) To vest authority for the construction, enlargement,
14 improvement, maintenance, equipment, operation, and regulation
15 thereof in an officer, a board, or body of the municipality by
16 ordinance or resolution that prescribes the powers and duties of the
17 officer, board, or body; and the municipality may also vest authority
18 for industrial and commercial development in a municipal airport
19 commission consisting of at least five resident taxpayers of the
20 municipality to be appointed by the governing board of the
21 municipality by an ordinance or resolution that includes (i) the

1 terms of office, which may not exceed six years and which shall be
2 staggered so that not more than three terms will expire in the same
3 year, (ii) the method of appointment and filling vacancies, (iii) a
4 provision that there shall be no compensation but may provide for a
5 per diem of not to exceed twenty-five dollars per day plus travel
6 expenses for time spent on commission business, (iv) the powers and
7 duties of the commission, and (v) any other matters necessary to the
8 exercise of the powers relating to industrial and commercial
9 development. The expense of the construction, enlargement,
10 improvement, maintenance, equipment, industrial and commercial
11 development, operation, and regulation are the responsibility of the
12 municipality.

13 (b) To adopt and amend all needed rules, regulations, and
14 ordinances for the management, government, and use of any properties
15 under its control, whether within or outside the territorial limits
16 of the municipality; to provide fire protection for the airport,
17 including the acquisition and operation of fire protection equipment
18 and facilities, and the right to contract with any private body or
19 political subdivision of the state for the furnishing of such fire
20 protection; to appoint airport guards or police, with full police
21 powers; to fix by ordinance or resolution, as may be appropriate,
22 penalties for the violation of the rules, regulations, and
23 ordinances, and enforce those penalties in the same manner in which
24 penalties prescribed by other rules, regulations, and ordinances of
25 the municipality are enforced. For the purposes of such management
26 and government and direction of public use, that part of all
27 highways, roads, streets, avenues, boulevards, and territory that
28 adjoins the limits of any airport or restricted landing area acquired
29 or maintained under the provisions of this chapter is under like
30 control and management of the municipality. It may also adopt and
31 enact rules, regulations, and ordinances designed to safeguard the
32 public upon or beyond the limits of private airports or landing
33 strips within the municipality or its police jurisdiction against the
34 perils and hazards of instrumentalities used in aerial navigation.
35 Rules, regulations, and ordinances shall be published as provided by
36 general law or the charter of the municipality for the publication of
37 similar rules, regulations, and ordinances. They shall conform to and
38 be consistent with the laws of this state and the rules of the state
39 department of transportation and shall be kept in conformity, as
40 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 years, but any such lease of real property made
13 for a longer period than ten years shall contain provisions requiring
14 the municipality and the lessee to permit the rentals for each five-
15 year period thereafter, to be readjusted at the commencement of each
16 such period if written request for readjustment is given by either
17 party to the other at least thirty days before the commencement of
18 the five-year period for which the readjustment is requested. If the
19 parties cannot agree upon the rentals for the five-year period, they
20 shall submit to have the disputed rentals for the period adjusted by
21 arbitration. The lessee shall pick one arbitrator, and the governing
22 body of the municipality shall pick one, and the two so chosen shall
23 select a third. After a review of all pertinent facts the board of
24 arbitrators may increase or decrease such rentals or continue the
25 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 years, the lease must contain a provision allowing for a

1 readjustment of the rent every five years after the initial ten-year
2 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 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 annual commercial air service passenger
19 enplanements on average over the most recent seven full calendar
20 years that is located within the boundaries of a city that has passed
21 a local law or ordinance setting a minimum labor standard that
22 applies to certain employers operating or providing goods and
23 services at the airport is authorized to enact a minimum labor
24 standard that applies to employees working at the airport, so long as
25 the minimum labor standard meets, but does not exceed, the minimum
26 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 Senate March 2, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

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