

AIRPORT PLANS

Senate Bill 764 (Substitute H-1)
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First Analysis (12-5-00)

Sponsor: Sen. Walter H. North
House Committee: Local Government and
Urban Policy
Senate Committee: Local, Urban and State
Affairs

THE APPARENT PROBLEM:

The Bureau of Aeronautics in the Department of Transportation points out that although the governing boards of airports must report expansion plans to state transportation officials, they have no obligation under the land use planning laws to notify local units of government about their plans to expand their operations. Airports are not, in the terminology of local planning officials, subject to the 'site-plan review' that is customarily undertaken by the city, township, or county planning commissions in order to coordinate development activities.

Near a residential area, a noisy airport can be an incompatible land use. Generally the most unacceptable of its characteristics must be buffered or contained, if not avoided or entirely eliminated. Seldom are residential neighbors able to ignore the essentially incompatible land use, since the presence of an airport usually diminishes the value of adjacent property. When citizens are caught unaware by an airport expansion, they are understandably upset, and their level of dissatisfaction increases when they learn they have no recourse under the land use planning laws.

To improve communication between those who govern airports, those who live near them, and those land use planners in local government whose work requires that they reconcile similar categories of land uses while avoiding those that are most incompatible, legislation has been proposed that would require airports to notify local government officials of their land use plans.

THE CONTENT OF THE BILLS:

Senate Bill 764 would amend the Aeronautics Code (MCL 259.9 and 259.151) to require the airport manager of an airport licensed under the code to file a copy of the airport approach plan and the airport layout

plan, if any, and a registration of the airport's name and mailing address with any city, village, township, or county that was located in whole or in part within the approach protection area. Under the bill, the filing would be made with the zoning board, zoning commission, or other commission appointed to recommend zoning regulations, or, if there were no body exercising the powers of such a commission, then with the legislative body of the city, village, township or county.

Senate Bill 764 is tie-barred to Senate Bill 765, House Bill 5036 (which would amend the Township Zoning Act), and House Bill 5037 (which would amend the County Zoning Act).

Senate Bill 765 would amend the City and Village Zoning Act (MCL 125.584 and 125.600) to specify that if, after an airport layout plan or approach plan was filed with the zoning commission (or if there were no body exercising the powers of a zoning commission, then with the legislative body of a city or village), the plan was adopted or revised, the city or village would be required to incorporate the airport plan into the required plan.

Further, the bill would require that a zoning ordinance adopted after the effective date of the bill could be adopted only after reasonable consideration of both a) the environs of any airport within a district; and, b) comments received at or before a public hearing from the airport manager. In contrast, a zoning ordinance adopted before the effective date of the bill would not be required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. However, any zoning ordinance amendment adopted, or variance granted, after the effective date of the bill could not increase any inconsistency that might exist between the zoning ordinance, and any airport

zoning regulations, layout plan, or approach plan. Further, the bill specifies that if a zoning ordinance were adopted after the effective date, it would be required to be consistent with the airport zoning regulations, layout plan, and approach plan. Finally, the bill specifies that these provisions would not limit the right of citizens to file a protest petition concerning a zoning ordinance amendment.

Finally, the bill specifies that promptly following adoption of a zoning ordinance or subsequent amendment by the legislative body of the city or village, a copy of the notice of adoption would be mailed to the airport manager entitled to notice.

Senate Bill 765 would define “airport approach plan” to mean a plan, or an amendment to a plan, adopted under the Airport Zoning Act, and filed with the commission appointed to recommend zoning regulations for a city or village. “Airport layout plan” would mean a plan, or an amendment to a plan, that showed the current or proposed layout of an airport, that was approved by the Michigan Aeronautics Commission, and that was filed with a city or village zoning commission. “Airport zoning regulations” would mean the airport zoning regulations adopted under the Airport Zoning Act for an airport hazard area that lay in whole or part in the area affected by a zoning ordinance under the act.

HOUSE COMMITTEE ACTION:

The House Committee on Local Government and Urban Policy adopted substitutes for the Senate-passed versions of both bills. The committee substitute for Senate Bill 764 clarifies that an airport approach plan would be filed with the legislative body of the city, village, township, or county if there was no body exercising the powers of a zoning board or zoning commission; and, adds a tie-bar to House Bills 5036 and 5037.

The committee substitute for Senate Bill 765 includes language to make the planning review process comport with Senate Bill 764. Further, the substitute specifies that a zoning ordinance adopted *after* the effective date of the bill must be adopted after reasonable consideration of both a) the environs of any airport within a district; and, b) comments received at or before a public hearing from the airport manager. In the alternative, a zoning ordinance adopted *before* the effective date of the bill would not be required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. However, any zoning ordinance amendment adopted, or variance

granted, after the effective date of the bill *could not increase any inconsistency* that might exist between the zoning ordinance, and any airport zoning regulations, layout plan, or approach plan. The bill specifies that if a zoning ordinance were adopted after the effective date, it would be required to be consistent with the airport zoning regulations, layout plan, and approach plan. Finally, the bill specifies that these provisions would not limit the right of citizens to file a protest petition concerning a zoning ordinance amendment.

BACKGROUND INFORMATION:

Senate Bill 764 is tie-barred to House Bills 5036 and 5037. The House bills have passed the House and Senate, and are on the House calendar where they await concurrence with amendments added by the Senate.

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the bills have no fiscal impact. (12-4-00)

ARGUMENTS:

For:

These bills would not change any existing authority in local planning. At present, airports have no obligation to notify local planning agencies of changes to their airport layout plans. Upon adoption of these bills, airport managers would be required to notify local planning agencies of the future plans of the airport. The bills are designed to improve communication between airport and community planning agencies. The bills would not authorize or allow airports to expand unchallenged, or without due process. Adoption of the bills will help protect citizens with airports in their communities from poor planning practices. Adoption of this legislation will help guard the quality of life of the citizenry living near airports as well as the nearly \$130 million annual investment in airports by public agencies.

For:

Local land use planning is undertaken by planners in local government in order to provide economic development opportunities in a region. Chief among the concerns of planners is that compatible developments be approved so that the uses on the land work well together. For example, a noisy airport adjacent to a residential area is an example of an incompatible use. Generally the most unacceptable characteristics of an incompatible use must be buffered or contained, if not avoided or entirely eliminated. For

example, in the situation of an airport and neighborhood, trees might be planted to buffer noise, the edge of the runway might be hidden behind an earthen berm, or a ring-road might be designed to encircle the development and allow for additional set-back. Despite efforts to buffer or contain essentially incompatible uses, residential neighbors are seldom able to ignore them completely, since their presence usually diminishes the value of adjacent property. When citizens are caught unaware by an airport expansion, they are understandably upset, and their level of dissatisfaction increases when they learn they have no recourse under the land use planning laws. This legislation will improve communication between officials who govern counties, townships and cities, and those who govern airports. Under this legislation, their efforts to plan for development of the land would be undertaken together.

POSITIONS:

The Department of Transportation supports the bills.
(12-1-00)

The Michigan Townships Association supports the bills. (12-1-00)

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#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.