

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 1139

By: Senator Rapert

For An Act To Be Entitled

AN ACT TO REQUIRE COUNTIES, CITIES, AND TOWNS TO
PROVIDE NOTICE OF PROPOSED AIRPORT DEVELOPMENTS; TO
REGULATE AIRPORT COMMISSIONS; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE COUNTIES, CITIES, AND TOWNS TO
PROVIDE NOTICE OF PROPOSED AIRPORT
DEVELOPMENTS AND TO REGULATE AIRPORT
COMMISSIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 14-358-101 is amended to read as follows:
14-358-101. Authorization.

Any Subject to this chapter and the Multijurisdictional Airport
Commission Act, § 14-375-101 et seq., a county in this state may acquire,
own, operate, and maintain an airport or flying field in that county and may
make, build, and construct all improvements at the airport or flying field as
may be deemed necessary for the proper operation thereof.

SECTION 2. Arkansas Code Title 14, Chapter 358, Subchapter 1 is
amended to add two additional sections to read as follows:

14-358-103. Notice requirements.

(a) As used in this section, "airport development" means the
construction of one (1) or more of the following:

- (1) A new airport;
- (2) A new runway; or



(3) A major runway extension.

(b)(1) Before beginning construction of an airport development, a county that is planning an airport development under this chapter shall provide notice of the opportunity for a public hearing by mail to all persons residing within two (2) miles of the location of the planned airport development.

(2) The notification required in subdivision (b)(1) of this section shall:

(A) State the intent of the county to undertake the proposed airport development;

(B) Describe the proposed airport development and its location;

(C) State that the purpose of a hearing is to address the following:

(i) The proposed airport development;

(ii) The potential economic, social, and environmental impact of the proposed airport development; and

(iii) The proposed airport development's consistency with the goals and objectives of each affected area's land use or planning strategy;

(D)(i) State the location and time at which any environmental assessments or environmental impact statements for the proposed airport development will be available for public review.

(ii) Each environmental assessment and environmental impact statement shall be available for public review at least thirty (30) days before the hearing occurs; and

(E) State that a recipient of the notice has fifteen (15) days from the date the notice is issued to request a hearing.

(c)(1) If a request for a public hearing is not received under subsection (b) of this section, then the chief executive officer of the county shall certify that the required notice was sent and no requests were received.

(2) If a public hearing is not held, the county shall consider any potential negative economic, social, and environmental impact of the proposed airport development on all persons residing within two (2) miles of the location of the proposed airport development.

(d)(1) When a public hearing has been requested, the county shall provide notice of the hearing by mail to all persons residing within two (2) miles of the location of the planned airport development.

(2) The notification required in subdivision (d)(1) of this section shall:

(A) Be mailed at least thirty (30) days before the date the hearing will occur;

(B) Include the information required under subdivisions (b)(2)(A)-(D) of this section;

(C) State the date, time, and location of the hearing;

(D) List the potentially affected environmental resources based on the obtained environmental assessments and environmental impact statements; and

(E) State that an interested person may send a written comment to the chief executive officer of the county within ten (10) days following the date of the hearing.

(e) The requirements in this section are supplemental to and do not replace any other notification requirements under Arkansas law or federal law.

(f) A county is responsible for all costs associated with providing the notice required under this section.

14-358-104. Cooperation with other political subdivisions.

(a) As used in this section, "airport development" is defined the same as in § 14-358-103.

(b)(1) If a proposed airport development will have a potential economic, social, or environmental impact on residents outside of the county, city, or town sponsoring the airport development, the sponsoring county shall cooperate with the governing body of the county, city, or town in which the affected persons reside in planning the airport development.

(2)(A) A county shall certify to the Arkansas Department of Aeronautics Commission that it has complied with the requirements in this section and the notice requirements of § 14-358-103.

(B) A county that does not comply with the requirement in subdivision (b)(1) of this section is not eligible to receive matching funds for the airport development from the commission or any state agency.

(C) A person who contests a county's certification under this subsection (b) shall notify the commission in writing at or before the commission's hearing on the proposed grant to the county.

SECTION 3. Arkansas Code § 14-360-101 is amended to read as follows:
14-360-101. Municipal airports authorized.

Cities Subject to this chapter and the Multijurisdictional Airport Commission Act, § 14-375-101 et seq., cities of the first and second class and incorporated towns in the State of Arkansas may acquire and own airports or flying fields, which may be located either within or without the corporate limits of the cities or towns.

SECTION 4. Arkansas Code Title 14, Chapter 360, Subchapter 1 is amended to add two additional sections to read as follows:

14-360-106. Notice requirements.

(a) As used in this section, "airport development" means the construction of one (1) or more of the following:

- (1) A new airport;
- (2) A new runway; or
- (3) A major runway extension.

(b)(1) Before beginning construction of an airport development, a city of the first class, a city of the second class, or an incorporated town that is planning an airport development under this chapter shall provide notice of the opportunity for a public hearing by mail to all persons residing within two (2) miles of the location of the planned airport development.

(2) The notification required in subdivision (b)(1) of this section shall:

(A) State the intent of the city of the first class, city of the second class, or incorporated town to undertake the proposed airport development;

(B) Describe the proposed airport development and its location;

(C) State that the purpose of a hearing is to address the following:

- (i) The proposed airport development;
- (ii) The potential economic, social, and

environmental impact of the proposed airport development; and

(iii) The proposed airport development's consistency with the goals and objectives of each affected area's land use or planning strategy;

(D)(i) State the location and time at which any environmental assessments or environmental impact statements for the proposed airport development will be available for public review.

(ii) Each environmental assessment and environmental impact statement shall be available for public review at least thirty (30) days before the hearing occurs; and

(E) State that a recipient of the notice has fifteen (15) days from the date the notice is issued to request a hearing.

(c)(1) If a request for a public hearing is not received under subsection (b) of this section, then the chief executive officer of the city of the first class, city of the second class, or incorporated town shall certify that the required notice was sent and no requests were received.

(2) If a public hearing is not held, the city of the first class, city of the second class, or incorporated town shall consider any potential negative economic, social, and environmental impact of the proposed airport development on all persons residing within two (2) miles of the location of the proposed airport development.

(d)(1) When a public hearing has been requested, the city of the first class, city of the second class, or incorporated town shall provide notice of the hearing by mail to all persons residing within two (2) miles of the location of the planned airport development.

(2) The notification required in subdivision (d)(1) of this section shall:

(A) Be mailed at least thirty (30) days before the date the hearing will occur;

(B) Include the information required under subdivisions (b)(2)(A)-(D) of this section;

(C) State the date, time, and location of the hearing;

(D) List the potentially affected environmental resources based on the obtained environmental assessments and environmental impact statements; and

(E) State that an interested person may send a written

comment to the chief executive officer of the city of the first class, city of the second class, or incorporated town within ten (10) days following the date of the hearing.

(e) The requirements in this section are supplemental to and do not replace any other notification requirements under Arkansas law or federal law.

(f) A city of the first class, a city of the second class, or an incorporated town is responsible for all costs associated with providing the notice required under this section.

14-360-107. Cooperation with other political subdivisions.

(a) As used in this section, "airport development" is defined the same as in § 14-360-106.

(b)(1) If a proposed airport development will have a potential economic, social, or environmental impact on residents outside of the city of the first class, city of the second class, or incorporated town sponsoring the airport development, the sponsoring city of the first class, city of the second class, or incorporated town shall cooperate with the governing body of the county, city, or town in which the affected persons reside in planning the airport development.

(2)(A) A city of the first class, a city of the second class, or an incorporated town shall certify to the Arkansas Department of Aeronautics Commission that it has complied with the requirements in this section and the notice requirements of § 14-360-106.

(B) A city of the first class, a city of the second class, or an incorporated town that does not comply with the requirement in subdivision (b)(1) of this section is not eligible to receive matching funds for the airport development from the commission or any state agency.

(C) A person who contests the certification under this subsection (b) of a city of the first class, a city of the second class, or an incorporated town shall notify the commission in writing at or before the commission's hearing on the proposed grant to the city of the first class, city of the second class, or incorporated town.

SECTION 5. Arkansas Code Title 14 is amended to add an additional chapter to read as follows:

Chapter 375Multijurisdictional Airport Commissions14-375-101. Title.

This chapter shall be known as the "Multijurisdictional Airport Commission Act".

14-375-102. Applicability.

This chapter shall apply to:

(1) A county or municipality constructing an airport development on or after January 1, 2012; and

(2) A county or municipality that has a portion of its property located in the impact area of an airport development constructed on or after January 1, 2012.

14-375-103. Integration with other applicable laws.

(a) This chapter shall be interpreted and construed to make uniform as far as possible the laws and regulations of this state and other states and of the government of the United States having to do with the subject of county and municipal airports.

(b) This chapter is cumulative of and in addition to all laws of the state on this subject.

14-375-104. Definitions.

As used in this chapter:

(1) "Airport development" means the construction by a county or municipality of one (1) or more of the following:

(A) A new airport;

(B) A new runway; or

(C) A major runway extension;

(2) "Multijurisdictional impact area" means the impact area of an airport development that affects at least one (1) county or municipality other than the county or municipality constructing the airport development, as shown by the overlay district, impact area, or similar map of the airport development; and

(3) "Municipality" means a city of the first class, a city of

the second class, and an incorporated town.

14-375-105. Creation of commission.

(a)(1) A county or municipality that constructs an airport development with a multijurisdictional impact area shall enact by a majority vote of its governing body an ordinance or order creating an airport commission to be composed of at least seven (7) but no more than fifteen (15) citizens who are qualified electors of the jurisdictions the members are appointed to represent.

(2) If an airport development with a multijurisdictional impact area is an improvement to an existing airport or its relative properties and facilities and a commission for the airport already exists, the existing commission shall be reorganized to comply with this chapter.

(b) No more than one (1) member of the commission may have financial dealings or interests in an aeronautical enterprise while a member of the commission.

(c)(1) Each county or municipality that has a portion of its property located within the multijurisdictional impact area of the airport development may have at least one (1) member elected from its jurisdiction on the commission.

(2) However, except for the county or municipality constructing the airport development, each county or municipality shall have representation on the commission only if the governing body of the county or municipality provides for the participation of the county or municipality by ordinance or order.

(d) If at least one (1) county or municipality elects to participate in the commission under subsection (c) of this section, all of the participating counties and municipalities, including the county or municipality constructing the airport development, shall enter into an agreement establishing the terms and conditions for the creation and operation of the commission within the limitations provided in this chapter and Arkansas law.

14-375-106. Appointment of commissioners.

(a)(1) The number of members of the commission that each county and municipality participating under § 14-375-105 is entitled to appoint to the

commission shall be stated in the agreement required under § 14-375-105(d).

(2) However, each participating county and municipality is entitled to appoint at least one (1) member of the commission.

(b) The chief executive officer of each participating municipality and the county judge of each participating county shall make the appointments allotted under this chapter and in accordance with the agreement required under § 14-375-105(d).

(c)(1) The members of the commission first appointed and confirmed shall serve staggered terms as provided in the agreement entered into under § 14-375-105(d), with at least one-third (1/3) of the members of the commission serving six-year terms, at least one-third (1/3) of the members of the commission serving four-year terms, and at least one-third (1/3) of the members of the commission serving two-year terms.

(2) Each succeeding appointment shall be for a six-year term.

(d) Each member of the commission shall be a bona fide resident and qualified elector of the county or municipality that the member represents.

(e) Each member of the commission shall file the oath required by law in the state.

(f) In the event of a vacancy occurring on the commission, the chief executive officer of the county or municipality that the member of the commission represented shall appoint another person to fill the unexpired portion of the term of the member.

14-375-107. Removal of a member of the commission.

(a) A member of the commission appointed by the provisions of this chapter may be removed as provided in the agreement required under § 14-375-105(d).

(b) However, a member of the commission may be removed only for cause and only after a hearing in which the member proposed to be removed is given reasonable notice and an opportunity to appear.

14-375-108. Salary of members of the commission.

The compensation provided to members of the commission, if any, shall be stated in the agreement required under § 14-375-105(d).

14-375-109. Meetings of commission.

(a) The commission shall meet at least quarterly.

(b) The agreement required under § 14-375-105(d) shall state any further requirements for meetings of the commission.

14-375-110. Authority of members of the commission.

(a)(1) The members of the commission appointed under this chapter shall have full and complete authority to manage, operate, improve, extend, and maintain the airport development and its related properties and facilities.

(2) The members of the commission shall have full and complete charge of the airport development and its related properties and facilities, including without limitation the right to:

(A) Establish charges and fees for the services and facilities of the airport development and to collect, handle, and disburse all revenues derived therefrom;

(B) Contract; and

(C) Employ and remove assistants and employees and to fix, regulate, and pay their compensation.

(b) It is the intention of this chapter to vest in the commission unlimited authority to operate, manage, maintain, improve, and extend the airport development and its related properties and facilities and to have full and complete charge of it.

(c) The authority granted in this section is subject to any limitations stated in the agreement required under § 14-375-105(d).

14-375-111. Estimate of costs.

(a) Annually, before the counties and municipalities prepare their budgets, the commission shall submit to the governing body of each participating county and municipality the amount of funds above the estimated revenue and the funds remaining on hand that is necessary for the maintenance, operation, and management of the commission and the airport development and its related properties and facilities.

(b) The agreement required under § 14-375-105(d) may state additional requirements regarding the commission's budget, costs, and expenses.

14-375-112. Creation of multijurisdiction fund.

(a)(1) For the purpose of providing the commission with moneys for the necessary expenditures in carrying out the provisions of this chapter, a multi-jurisdictional fund shall be created and maintained, and the share of each of the participating counties and municipalities as provided by the agreement required under § 14-375-105(d) shall be deposited into the fund.

(2) Each participating county and municipality shall provide its share of the fund from sources available to each.

(b) Disbursements from the fund shall be made by order of the commission subject to any limitations prescribed in the agreement required under § 14-375-105(d).

(c) Any federal, state, or other contributions or loans, the revenues obtained from the ownership, control, and operation of an airport development under the jurisdiction of the commission, and any costs not related to the operation and maintenance of the commission shall be handled in accordance with the agreement required under § 14-375-105(d).

14-375-113. Rules.

(a) The commission shall adopt rules as necessary and expedient for the proper operation and management of the commission, the airport development, and the airport development's related properties and facilities.

(b) The commission shall comply with, or cause to be complied with, all civil air regulations of the federal and state government as to air worthiness, certification, and operation of aircraft.

14-375-114. Additional powers of the commission.

The commission shall, in addition to the other powers enumerated in this chapter, have other powers as are given in the agreement required under § 14-375-105(d).

14-375-115. Enforcement.

A county or municipality affected by a violation under this chapter may institute legal proceedings, including without limitation the seeking of an injunction, against the county or municipality owning the airport development.