

ENROLLED HOUSE  
BILL NO. 2006

By: Hefner of the House

and

Stipe of the Senate

An Act relating to aircraft and airports; amending 3 O.S. 1991, Sections 65.1 and 82, which relate to definitions; modifying and adding definitions; amending 3 O.S. 1991, Section 84, which relates to the Oklahoma Aeronautics Commission; deleting certain office space requirement; amending 3 O.S. 1991, Section 85, which relates to the powers and duties of the Oklahoma Aeronautics Commission; changing references to Director; modifying certain authorization to act as agent; permitting Oklahoma Aeronautics Commission to organize and administer certain programs; permitting Oklahoma Aeronautics Commission to issue certain films and publications; amending 3 O.S. 1991, Section 90, which relates to construction and repair of airports in various counties; clarifying reference to certain airports; amending 3 O.S. 1991, Section 101, which relates to definitions; modifying definition; amending 3 O.S. 1991, Section 102.1, which relates to permits; changing reference to Oklahoma Aeronautics Commission; deleting certain permit requirements; deleting certain permit fees; amending 3 O.S. 1991, Sections 103, 105, 107 and 116, which relate to airport zoning; clarifying appointment of certain chairman and term of office; providing for presentation of certain resolution to certain political subdivisions; clarifying certain language; deleting certain notice requirements; modifying certain requirement to provide technical assistance; deleting certain requirements to issue and provide certain materials; deleting certain permit proceedings; amending 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 1 of Enrolled Senate Bill No. 454 of the 1st Session of the 45th Oklahoma Legislature, which relates to the classification of positions; providing for certain position to be placed under unclassified service; amending Section 17, Chapter 242, O.S.L. 1994, which relates to classification of personnel of the Oklahoma Aeronautics Commission; providing exception; providing for noncodification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 3 O.S. 1991, Section 65.1, is amended to read as follows:

Section 65.1 As used in this act, unless the text otherwise requires:

(a) "Airport" means ~~any an~~ an area of on land or water ~~which that~~ is used, or intended ~~for use~~ to be used, for the landing and ~~take~~ taking off of aircraft, and ~~any appurtenant areas which are used, or intended to use, for airport~~ includes its buildings or other airport and facilities or rights-of-way, together with all airport buildings and facilities located thereon, if any.

(b) "Air navigation facility" means any facility - other than one owned and operated by the United States - used in, available for use in, or designed for use in, aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(c) "Airport hazard" means any structure, object ~~or~~ of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

(d) "Helipad" means a small designated area, usually with a prepared surface, on a heliport, airport, landing or takeoff area, apron or ramp, or movement area used for takeoff, landing or parking of helicopters.

(e) "Heliport" means an area of land, water or structure used or intended to be used for the landing and takeoff of helicopters and includes its buildings and facilities, if any.

(f) "Municipality" means any county, city, or town of this state. "Municipal" means pertaining to a municipality as herein defined.

~~(e)~~ (g) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee or other similar representative thereof.

SECTION 2. AMENDATORY 3 O.S. 1991, Section 82, is amended to read as follows:

Section 82. As used in this act, unless the context otherwise requires:

(a) "Aeronautics" means the science, art, and practice of flight including but not limited to transportation by aircraft and matters relating to air commerce; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(b) "Aircraft" means any contrivance now known, or hereafter invented, used, or designed for navigation of or flight in the air or airspace.

(c) "Airport" means ~~any an~~ an area of land or water ~~which that~~ is used, or intended ~~for use~~ to be used, for the landing and takeoff of aircraft, and ~~any appurtenant areas which are used, or intended for use, for airport buildings, clear zones, buffer zones, or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon, if any.~~

(d) "Airspace" means that portion of the atmosphere overlying a designated geographical area considered as subject to territorial jurisdiction or international law in respect to its use by aircraft, guided missiles, and rockets.

(e) "Commission" means the Oklahoma Aeronautics Commission.

(f) "Director" means the Director of Aeronautics of Oklahoma.

(g) "State" or "this state" means the State of Oklahoma.

(h) "Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(i) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state.

(j) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, and appliances.

(k) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(l) "Municipality" means any incorporated city, village, or town of this state and any county or political subdivision or district in this state which is, or may be, authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical navigation facilities.

(m) "Aeronautical hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport that is otherwise hazardous to the operation and navigation of aircraft.

(n) "Resources" means services, facilities, funds, equipment, property, personnel, and such other activities as are customarily included within the term.

(o) "Helipad" means a small, designated area, usually with a prepared surface, on a heliport, airport, landing or takeoff area, apron or ramp, or movement area used for takeoff, landing or parking of helicopters.

(p) "Heliport" means an area of land, water or structure used or intended to be used for the landing and takeoff of helicopters and includes its buildings and facilities, if any.

(q) "Commercial service airport" means an airport meeting the current Federal Aviation Administration definition for commercial service airport.

(r) "Primary commercial service airport" means an airport meeting the current Federal Aviation Administration definition for primary commercial service airport.

(s) "Reliever airport" means an airport designated by the Federal Aviation Administration as a reliever airport and which provides substantial capacity or instrument training relief to a primary commercial service airport.

(t) "General aviation airport" means an airport not meeting the criteria for definition as a commercial service or reliever airport.

SECTION 3. AMENDATORY 3 O.S. 1991, Section 84, is amended to read as follows:

Section 84. A. There is hereby created the Oklahoma Aeronautics Commission, which shall be the successor to the Oklahoma Aviation Commission created by Sections 72 et seq. of Title 3 of the Oklahoma Statutes. The Oklahoma Aeronautics Commission shall consist of seven (7) members, who shall be appointed by the Governor and who shall continue in office, as designated by the Governor at the time of appointment, through the last day of the second, third, fourth, fifth, sixth, and seventh calendar years, respectively, following the passage of this act, with the initial seventh member remaining in office until the end of the calendar year 1979. The successors of the members initially appointed shall be appointed for terms of six (6) years in the same manner as the members originally appointed under this act, except that any person appointed to fill a vacancy shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of ~~his~~ a successor. No more than one of the original six (6) members or their successors shall be from any one congressional district, as created by ~~14 O.S. 1961~~, Section 1, of Title 14 of the Oklahoma Statutes while the seventh member and ~~his~~ the successors may be from any part of the state. To qualify for appointment to the Commission, an appointee shall have the following minimum qualifications:

- (1) A citizen and bona fide resident of the state;
- (2) Three (3) years' experience in aeronautical activities, such as general aviation, agricultural aviation, airport management, or air carrier operation.

Members of the Commission shall receive no salary but shall be entitled to be reimbursed for necessary travel expenses pursuant to the State Travel Reimbursement Act. The members of the Commission may be removed by the Governor for inefficiency, neglect of duty, or malfeasance in office in the manner provided by law for the removal of officers not subject to impeachment.

B. (1) A Director of Aeronautics shall be appointed by the Commission, who shall serve at the pleasure of the Commission. ~~He~~ The Director shall be appointed with due regard to ~~his~~ such person's fitness, by aeronautical education and by knowledge of and recent practical experience in aeronautics for the efficient dispatch of the powers and duties duly vested in and imposed upon ~~him~~ the Director. ~~He~~ The Director shall devote full time to the duties of ~~his~~ the office and shall not be actively engaged or employed in any other business, vocation, or employment, nor shall ~~he~~ the Director have any pecuniary interest in or any stock in or bonds of any civil aeronautics enterprise. ~~He~~ The Director shall be reimbursed for all traveling and other expenses incurred ~~by him~~ in the discharge of ~~his~~ the official duties of the Director, subject to general statutory limitations on such expenses as contained in ~~Sections 500.1 and following of Title 74, Oklahoma Statutes~~ the State Travel Reimbursement Act.

(2) The Director shall be the executive officer of the Commission and under its supervision shall administer the provisions of this act and rules, regulations, and orders established thereunder and all other laws of the state relative to aeronautics. ~~He~~ The Director shall attend all meetings of the Commission, but shall have no vote. ~~He~~ The Director shall be in charge of the offices of the Commission and responsible to the Commission for the preparation of reports and the collection and dissemination of data and other public information relating to aeronautics. ~~He~~ The

Director is hereby empowered to execute all contracts entered into by the Commission.

(3) The Commission may, by written order filed in its office, delegate to the Director any of the powers or duties vested in or imposed upon it by this act. Such delegated powers and duties may be exercised by the Director in the name of the Commission.

(4) The Director shall appoint, subject to the approval of the Commission, such experts, field and office assistants, clerks, and other employees as may be required and authorized for the proper discharge of the functions of the Commission.

C. The Commission shall, within thirty (30) days after its appointment, organize, adopt a seal, and make such rules and regulations for its administration, not inconsistent herewith, nor inconsistent with, or contrary to, any act of the Congress of the United States or regulations promulgated or standards established pursuant thereto, as it may deem expedient and from time to time amend such rules and regulations. At such organizational meeting it shall elect from among its members a chairman, a vice-chairman, and a secretary, to serve for one (1) year, and annually thereafter shall elect such officers, all to serve until their successors are appointed and qualified. The Commission shall schedule meetings at a convenient time and place as they become necessary. Five (5) members shall constitute a quorum, and no action shall be taken by less than a majority of the Commission. Special meetings may be called as provided by the rules and regulations of the Commission. Regular meetings shall be held at the established offices of the Commission, but, whenever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, the Commission may hold meetings, hearings, or proceedings at any other place designated by it. The Commission shall report in writing to the Governor on or about July 31 of each year. The report shall contain a summary of the proceedings of the Commission during the preceding fiscal year, a detailed and itemized statement of all revenue and of all expenditures made by or in behalf of the Commission, such other information as it may deem necessary or useful, and any additional information which may be requested by the Governor.

D. Suitable office space shall be provided by the ~~Office of Public Affairs~~ Department of Central Services for the Commission in the City of Oklahoma City, and the Commission may incur the necessary expense for office rent, furniture, stationery, printing, incidental expenses, and other necessary expenses needed for the administration of this act.

SECTION 4. AMENDATORY 3 O.S. 1991, Section 85, is amended to read as follows:

Section 85. (a) The Commission and its Director acting under its authority is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics, and shall seek to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the Commission in the development of aeronautics and aeronautical facilities in this state.

(b) The Commission may organize and administer a voluntary program of air-age education in cooperation with the schools, colleges, and for the general public, and may prepare and conduct voluntary flight clinics for airmen and issue such bulletins and publications as may be required.

(c) The Commission shall assist in all aeronautical matters related to civil defense and civil emergency actions in conformance with federal directions and with the Civil Defense Plan of the state.

(d) The Commission may establish air markers throughout the state.

(e) The Commission may purchase and install roadside signs directing highway traffic to airports, subject to approval of the State Highway Transportation Commission.

(f) The Commission shall:

(1) draft and recommend necessary legislation to advance the interests of the state in aeronautics;

(2) represent the state in aeronautical matters before federal agencies and other state agencies; and

(3) participate as party plaintiff or defendant or as intervener on behalf of the state or any municipality or citizen thereof in any proceeding which involves the interest of the state in aeronautics.

(g) (1) The Commission may, insofar as is reasonably possible, make available its engineering and other technical services to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or navigation facilities.

(2) The Commission may render financial assistance by grant or loan or both to any municipality or municipalities acting jointly in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by such municipality or municipalities, out of appropriations or other monies made available by the Legislature for such purposes. Such financial assistance may be furnished in connection with federal or other financial aid for the same purposes.

(3) ~~The Commission is authorized to act as an agent of any municipality or municipalities acting jointly, upon the request of such municipality or municipalities, in accepting, receiving, receipting for, and disbursing federal monies, and other monies, public or private, made available to finance, in whole or in part, the planning, acquisition, construction, improvement, maintenance, or operation of a municipal airport or air navigation facility; and if requested by such municipality or municipalities shall be~~ designated as the agent of this state or political subdivision of this state for the purpose of applying for, receiving, administering and disbursing federal funds and other public monies for the benefit of general aviation airports, except reliever airports, as may be available under applicable federal law or other laws. If requested by a political subdivision, the Commission may act as its or their agent in contracting for and supervising such planning, acquisition, construction, improvement, maintenance, or operation; and all municipalities political subdivisions are authorized to designate the Commission as their agent for the foregoing purposes. The Commission, as principal on behalf of the state, and any municipality, on its own behalf, may enter into any contracts, with each other or with the United States or with any person, which may be required in connection with a grant or loan of federal monies for municipal airport or air navigation facility purposes. All federal monies accepted under this section shall be accepted and transferred or expended by the Commission upon such terms and conditions as are prescribed by the United States. All monies received by the Commission pursuant to this section shall be deposited in the Oklahoma Aeronautics Commission Fund in the State Treasury and shall

be paid out by the Commission in accordance with the terms and conditions of any agreement entered into under the provisions of this section.

(h) (1) The Commission is authorized on behalf of and in the name of the state, out of appropriations and other monies made available for such purposes, to plan, zone, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police airports and air navigation facilities, either within or without the state, including the construction, installation, equipping, maintenance, and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers, ~~provided, however, that such.~~ However, the regulatory authority shall not extend to any airman employed by, nor to any aeronautics facility or aircraft under the exclusive possession, operation, or control of, a person holding a certificate of public convenience and necessity issued by any agency of the United States to operate as a common carrier by air of persons and/or property in interstate commerce. For such purposes the Commission may, by purchase, gift, devise, or lease, acquire property, real or personal, or any interest therein including easements in aeronautical hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the state airports or to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards. In like manner the Commission may acquire existing airports and air navigation facilities; ~~provided, however, it.~~ However, the Commission shall not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of such municipality. The Commission may, by sale, lease, or otherwise, dispose of any such property, airport, air navigation facility, or portion thereof or interest therein. ~~Such~~ The disposal, by sale, lease, or otherwise, shall be in accordance with the laws of this state governing the disposition of other property of the state, except that, in the case of disposals to any municipality or state government or the United States for aeronautical purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the Commission may deem in the best interest of the state.

(2) All airports owned by the state shall be within the primary jurisdiction of the State Aeronautics Commission for purposes of design, development, and operation; provided, that airports owned and operated by the Air National Guard shall be exempt from such provisions during time of a national emergency, and provided further, that any airport owned by the state may be leased by the Commission to a public or private agency, as it may deem fit.

(3) Nothing contained in this act shall be construed to limit any right, power, or authority of the state or a municipality to regulate airport hazards by zoning.

(4) The Commission may exercise any powers granted by this section jointly with any municipalities or with the United States.

(5) a. In operating an airport or air navigation facility owned or controlled by the state, the Commission may enter into contracts, leases, and other arrangements for a term not exceeding twenty-five (25) years with any persons granting the privilege of using or improving such airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes; conferring the privilege of supplying goods, commodities, things, services, or facilities at such airport or air navigation

facility; or making available services to be furnished by the Commission or its agents at such airport or air navigation facility.

In each such case the Commission may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class of privileges or services and shall be established with due regard to the property and improvements used and the expenses of operation to the state; provided, that in no case shall the public be deprived of its rightful, equal, and uniform use of the airport, air navigation facility or portion or facility thereof.

b. The Commission may by contract, lease, or other arrangement, upon a consideration fixed by it, grant to any qualified person for a term not to exceed twenty-five (25) years the privilege of operating, as agent of the state or otherwise, any airport owned or controlled by the state; provided, that no such person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the Commission might not have undertaken under ~~paragraph~~ subparagraph a- of this ~~subsection (5)~~ paragraph.

c. To enforce the payment of any charges for repairs to, or improvements, storage, or care of, any personal property made or furnished by the Commission or its agents in connection with the operation of an airport or air navigation facility owned or operated by the state, the state shall have liens on such property, which shall be enforceable by the Commission as provided by law.

(6) In accepting federal monies under this section, the Commission shall have the same authority to enter into contracts on behalf of the state as is granted to the Commission under ~~section 5-(g)~~ subsection (g) of this ~~act~~ section with respect to federal monies accepted on behalf of municipalities. All monies received by the Commission pursuant to this section shall be deposited in the Oklahoma Aeronautics Commission Fund in the State Treasury and shall be paid out of the Commission Fund in accordance with the terms and conditions of any agreement entered into under the provisions of this section.

(7) The Commission shall grant no exclusive right for the use of any airport or air navigation facility under its jurisdiction. This shall not be construed to prevent the making of contracts, leases, and other arrangements pursuant to subsection (h) of this section.

(i) The Commission may enter into any contracts necessary to the execution of the powers granted it by this act. All contracts made by the Commission, either as the agent of the state or as the agent of any municipality, shall be made pursuant to the laws of the state governing the making of like contracts; ~~provided, however, that where.~~ When the planning, acquisition, construction, improvement, maintenance, or operation of any airport or air navigation facility is financed wholly or partially with federal monies, the Commission as agent of the state or of any municipality may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder.

(j) (1) The Commission, the Director, or any officer or employee of the Commission designated by it shall have the power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of this act and the rules, regulations, and orders of the Commission. Hearings shall be open to the public and shall be held upon such call or notice as the Commission shall deem advisable. Each member of the Commission, the Director, and

every officer or employee of the Commission designated by it to hold any inquiry, investigation, or hearing shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books, and documents. In case of the failure of any person to comply with any subpoena or order issued under the authority of this subsection, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county or of the judge thereof, on application of the Commission or its authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

(2) In order to facilitate the making of investigations by the Commission in the interest of public safety and promotion of aeronautics the public interest requires, and it is therefore provided, that the reports of investigations or hearings, or any part thereof, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in ~~said~~ the investigation, hearing, or report thereof, except in case of any suit, action, or proceeding, civil or criminal, instituted by or in behalf of the Commission or in the name of the state under the provisions of this act or other laws of the state relating to aeronautics; nor shall any member of the Commission, or the Director, or any officer or employee of the Commission be required to testify to any facts ascertained in, or information gained by reason of, ~~his~~ such person's official capacity, or be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. Subject to the foregoing provisions, the Commission may in its discretion make available to appropriate federal, state and municipal agencies information and material developed in the course of its investigations and hearings.

(k) (1) The Commission is authorized to confer with or to hold joint hearings with any agency of the United States in connection with any matter arising under this act or relating to the sound development of aeronautics.

(2) The Commission is authorized to avail itself of the cooperation, services, records, and facilities of the agencies of the United States as fully as may be practicable in the administration and enforcement of this act. The Commission shall furnish to the agencies of the United States its cooperation, services, records, and facilities, insofar as may be practicable.

(3) The Commission shall report to the appropriate agency of the United States all accidents in aeronautics in this state of which it is informed and shall, insofar as is practicable, preserve, protect, and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation.

(1) The Commission may organize and administer an aerospace education program in cooperation with universities, colleges and schools for the general public. The Commission may also plan and act jointly in a cooperative aviation research or high technology program. As part of these programs, the Commission may issue aviation communication films and publications.

SECTION 5. AMENDATORY 3 O.S. 1991, Section 90, is amended to read as follows:

Section 90. In order to assure a safe and adequate system of airports within this state:

1. In every county wherein there is no active airport, the Oklahoma Aeronautics Commission is authorized to construct within such county or a municipality located therein or upon land owned by the federal government but under the active control of the state, county or a municipality located within such county a runway of not less than two thousand six hundred (2,600) feet in length and to repair, maintain and hardsurface such runway.

2. In each county wherein there already exists an active airport owned by such county or a municipality located therein or upon land owned by the federal government but under the active control of the state, county or a municipality located within such county, but there does not exist within such county a hardsurfaced runway of at least two thousand six hundred (2,600) feet in length, the Oklahoma Aeronautics Commission may construct upon such lands as those described in paragraph 1 of this section a runway of not less than two thousand six hundred (2,600) feet and may repair, maintain and hardsurface such runway, or may, where sufficient land is available for such purpose, expand such existing airport to a length of two thousand six hundred (2,600) feet and may thereupon repair, maintain and hardsurface the entire runway.

3. During the fiscal year in which federal funds are available under the Federal Airport Program for development or improvement of a state, county or city owned or controlled ~~airstrip~~ airport, the Oklahoma Aeronautics Commission shall be prohibited from performing any construction or major repair work upon such airstrip unless and until such federal funds have been available for such purpose.

4. The Oklahoma Aeronautics Commission, ~~wherein~~ in any county where no airport containing two thousand six hundred (2,600) feet or more runway exists, is authorized to accept gifts of land to be used for a county airport and of money to be used to acquire an airport.

5. The Oklahoma Aeronautics ~~Board~~ Commission is further authorized to accept federal grants for construction, repair, maintenance and other purposes not inconsistent with the provisions of this section and to utilize machinery and material for the purpose of matching available federal funds and grants.

SECTION 6. AMENDATORY 3 O.S. 1991, Section 101, is amended to read as follows:

Section 101. As used in this act, unless the context otherwise requires:

(1) "Airport" means ~~any an~~ an area of land or water designed and set aside that is used or intended to be used for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purposes including its buildings and facilities, if any.

(2) "Airport hazard" means any structure, object of natural growth or ~~tree or~~ use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

(3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this act.

(4) "Political subdivision" means any municipality, city, town, village, or county.

(5) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(6) "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(7) "Tree" means any object of natural growth.

SECTION 7. AMENDATORY 3 O.S. 1991, Section 102.1, is amended to read as follows:

Section 102.1 (1) In order to prevent the erection of structures dangerous to air navigation, subject to the provisions of subsections (2), (3) and (4) of this section, each person shall secure from the ~~Oklahoma Aeronautics Commission~~ local airport zoning authority a permit for the erection, alteration, or modification of any structure the result of which would exceed the federal obstruction standards as contained in 14 CFR, Part 77. Permits from the ~~Oklahoma Aeronautics Commission~~ local airport zoning authority will be required only within an airport hazard area where federal standards are exceeded and if the proposed construction is within:

(a) A 10-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport open for public use which has a published instrument approach procedure;

(b) A 6-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport open for public use which has no published instrument approach procedure and has runways in excess of three thousand two hundred (3,200) feet in length; or

(c) A 2.5-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport open for public use which has no published instrument approach and has runways three thousand two hundred (3,200) feet or less in length.

(2) Affected airports will be considered as having those facilities which are programmed in the Federal Aviation Administration's Regional Aviation System Plan and will be so protected.

(3) Permit requirements of subsection (1) of this section shall not apply to projects which received construction permits from the Federal Communications Commission for structures exceeding federal obstruction standards prior to May 20, 1975; nor shall it apply to previously approved structures now existing, or any necessary replacement or repairs to such existing structures, so long as the height and location is unchanged.

~~(4) When political subdivisions have adopted adequate airspace protection in compliance with Sections 104 and 105 of this title, a permit for such structure shall not be required from the Oklahoma Aeronautics Commission.~~

~~(5) The Oklahoma Aeronautics Commission shall, within sixty (60) days of the receipt of an application for a permit, issue or deny a permit for the erection, alteration, or modification of any structure the result of which would exceed federal obstruction standards as contained in 14 CFR, Part 77, specifically 14 CFR ss 77.21, 77.23 and 77.25.~~

~~(6) In determining whether to issue or deny a permit, the Oklahoma Aeronautics Commission~~ local airport zoning authority shall consider:

(a) The nature of the terrain and height of existing structures;

(b) Public and private interests and investments;

(c) The character of flying operations and planned developments of airports;

(d) Federal airways as designated by the Federal Aviation Administration that lie within the radii described in paragraphs (a) through (c) of subsection (1) ~~(a) through (c)~~ of this section;

(e) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport;

(f) Technological advances;

(g) The safety of persons on the ground and in the air; and

(h) Land use density.

~~(7) Application for permits forwarded to the Commission shall be accompanied by payment of a fee of Two Hundred Dollars (\$200.00).~~

SECTION 8. AMENDATORY 3 O.S. 1991, Section 103, is amended to read as follows:

Section 103. (1) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area within its territorial limits shall adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

(2) Where an airport is owned or controlled by a political subdivision and any airport hazard area appertaining to such airport is located outside the territorial limits of ~~said~~ the political subdivision, the political subdivision owning or controlling the airport and the political subdivision within which the airport hazard area is located may, by ordinance or resolution duly adopted, create a Joint Airport Zoning Board, which Board shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by subsection (1) of this section in the political subdivision within which such area is located. Each ~~such~~ Joint Board shall have as members two ~~(2)~~ representatives appointed by each political subdivision participating in its creation and in addition a chairman elected by a majority of the members so appointed. The chairman shall be elected from the appointed membership of the Board for a term of two (2) years.

(3) Where the airport hazard area appertaining to any airport is located within the territorial limits of two or more political subdivisions, such political subdivisions together with the political subdivision, if any, owning or controlling said airport may, by ordinance or resolution duly adopted, create a Joint Zoning Board, which Board shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by subsection (1) of this section in the political subdivision within which such area is located. Each such Joint Board shall have as members one member appointed by each political subdivision participating in its creation and an additional member appointed by each political subdivision having a total population in excess of thirty-six thousand (36,000). The chairman shall be elected by a majority of the members so appointed. Such The chairman shall be elected from the appointed membership of the Board for a term of two (2) years. The Joint Board shall have the power to make its own rules and regulations governing its meetings and procedure and any zoning regulation shall be effective upon adoption by a majority of its members and shall thereupon be filed with the county clerk, without charge, of each county in which ~~said~~ the airport hazard area is located. The resolution shall then be presented for adoption to each of the political subdivisions participating in the Joint Airport Zoning Board. The failure of a political subdivision to participate in the creation of the Joint Airport Zoning Board shall

not restrict the authority of the Joint Airport Zoning Board to make and enforce zoning regulations over the entire airport hazard area.

SECTION 9. AMENDATORY 3 O.S. 1991, Section 105, is amended to read as follows:

Section 105. (1) Notice and Hearing. No airport zoning regulations shall be adopted, amended, or changed under this act except by action of the governing body of the political subdivision in question, or the Joint Board provided for in subsection (2) of Section 3(2)- 103 of this title, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the hearing shall be published in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which is located the airport hazard area to be zoned.

(2) Airport Zoning Commission. Prior to the initial zoning of any airport hazard area under this act, the political subdivision or Joint Airport Zoning Board which is to adopt the regulations shall appoint a Commission, to be known as the Airport Zoning Commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. ~~Such~~ The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the governing body of the political subdivision or the Joint Airport Zoning Board shall not hold its public hearings or take other action until it has received the final report of ~~such~~ the Commission. Where a city ~~plan~~ planning commission or comprehensive zoning commission already exists, it may be appointed as the Airport Zoning Commission.

SECTION 10. AMENDATORY 3 O.S. 1991, Section 107, is amended to read as follows:

Section 107. (1) Permits. Any airport zoning regulations adopted under this act may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or repaired. In any event, however, all such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change or repair. No permit shall be required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of such existing structures. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made. Except as provided herein, all applications for permits shall be granted.

(2) Variances. Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use ~~his~~ property in violation of airport zoning regulations adopted under this act, may apply to the Board of Adjustment for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and this act ~~+~~ Provided, that. However, any variance may be allowed subject to any

reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purpose of this act.

(3) Hazard Marking and Lighting. In granting any permit or variance under this section, the administrative agency or Board of Adjustment may, if it deems such action advisable to effectuate the purpose of this act and reasonable in the circumstances, so condition ~~such~~ the permit or variance as to require the owner of the structure or tree in question, at the owner's expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

(4) Copies of any request for a permit or variance shall be forwarded by the political subdivision or Joint Airport Zoning Board to the Commission within five (5) days of filing. ~~Within ten (10) days of the receipt of the copy of the request for permit or variance, the Commission shall notify the political subdivision or Joint Airport Zoning Board of the Commission's concurrence with or objection to the permit or variance. No permit or variance shall be issued or have any force and effect until notice from the Commission is placed of record.~~

SECTION 11. AMENDATORY 3 O.S. 1991, Section 116, is amended to read as follows:

Section 116. ~~(1)~~ The Oklahoma Aeronautics Commission ~~shall~~ may provide technical assistance to any political subdivision requesting assistance in the preparation of an airport zoning code. A copy of all local airport zoning codes, rules, and regulations, and amendments and proposed and granted variances thereto, shall be filed with the Oklahoma Aeronautics Commission.

~~(2) The Oklahoma Aeronautics Commission shall issue copies of the federal obstruction standards as contained in 14 CFR, Part 77, to each political subdivision having airport hazard areas, and, in cooperation with political subdivisions, shall issue appropriate airport zoning maps depicting for each airport the maximum allowable height of any structure or tree within the airport hazard area. Material distributed pursuant to this subsection shall be at no cost to authorized recipients.~~

~~(3) All proceedings conducted by the Commission concerning the issuance or denial of a permit shall be conducted in conformance with the Oklahoma Administrative Procedures Act, Sections 301 through 325 of Title 75 of the Oklahoma Statutes.~~

SECTION 12. AMENDATORY 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 1 of Enrolled Senate Bill No. 454 of the 1st Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided. Provided any person unclassified pursuant to this

paragraph on the effective date of this act in a capacity that does not meet the criteria listed in this paragraph may continue to be employed in such status until July 1, 1995;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and State Department of Vocational and Technical Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period. This category of employees may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Temporary lake patrol officers, regardless of the number of hours worked, who are employed by the Department of Public Safety during the period March 16 through October 31 in any calendar year; provided, the hours worked shall be considered in determining the temporary employee's eligibility for subsequent employment in any other unclassified temporary employment category;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

- a. an institution of higher learning within The Oklahoma State System of Higher Education,
- b. an institution of higher learning qualified to become coordinated with said State System of Higher Education. For purposes of this act a student shall be considered a regularly enrolled student if he or she is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, and such student is regularly attending classes during that semester of employment, or
- c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's Full-Time-Equivalent Employee Limit;

14. Employees of either the House of Representatives or the State Senate or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist, and
- g. Secretary of the Commission;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Information Services Divisions Manager,
- c. Network Manager, and
- d. Network Technician;

19. Employees of the Oklahoma Development Finance Authority;

20. Those positions so specified in the annual business plan of the Department of Commerce;

21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

23. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

24. Department of Labor personnel occupying the following offices and positions:

- a. Deputy Commissioner,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. Administrative Assistant, Legal;

25. The State Bond Advisor and his employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and

- c. Assistant to the Executive Director;
27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;
28. The officers and employees of the State Banking Department;
29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes;
30. Alcoholic Beverage Laws Enforcement Commission employees occupying the three Administrative Service Assistant positions;
31. The Oklahoma State Bureau of Investigation employee occupying the Special Investigator position; ~~and~~
32. The Governor's Representative of the Oklahoma Highway Safety Office of the Oklahoma Department of Public Safety who shall be appointed by the Governor; and
33. Oklahoma Department of Transportation personnel occupying the position of the Director of the Oklahoma Aeronautics Commission.

B. The unclassified service of the state may include, at the discretion of the appointing authority, the following regular offices, positions and personnel:

1. Licensed medical doctors, osteopathic physicians, dentists, and psychologists;
2. Certified public accountants;
3. Licensed attorneys; and
4. Licensed veterinarians.

SECTION 13. AMENDATORY Section 17, Chapter 242, O.S.L. 1994, is amended to read as follows:

Section 17. ~~Effective September 1, 1994~~ Except as otherwise provided in Section 840-5.5 of Title 74 of the Oklahoma Statutes, all employees of the Oklahoma Aeronautics Commission within the Oklahoma Department of Transportation who are exempt from the provisions of the Merit System of Personnel Administration pursuant to Executive Order, and employees who are unclassified pursuant to paragraphs 2, 4 and 6 of Section 8 of this act shall become classified and subject to the provisions of the Merit System of Personnel Administration, except those employees with less than six (6) months of service from their enter-on-duty date will remain in probationary status until obtaining permanent status in accordance with applicable rules of the Administrator of the Office of Personnel Management. Such persons shall be given permanent status in the classifications to which their positions are allocated by the Office of Personnel Management without reduction in base pay. All future appointments to such positions shall be in the classified service pursuant to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 14. Section 13 of this act shall not be codified in the Oklahoma Statutes.

SECTION 15. This act shall become effective July 1, 1995.

SECTION 16. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 3rd day of May, 1995.

Speaker of the House of  
Representatives

Passed the Senate the 4th day of May, 1995.

President of the Senate