COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1960 _____
Of the printed Bill

Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: T.W. Shannon

Adopted: _____

_____
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

PROPOSED COMMITTEE
SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1960

By: Coates and Myers of the Senate

and

Shannon of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to airports; creating the Aircraft Pilot and Passenger Protection Act; stating intent; defining terms; declaring certain structures incompatible with act; requiring permit for certain construction; stating requirements for permit applications for certain purposes; authorizing the Oklahoma Aeronautics Commission to investigate and evaluate certain permit applications; providing for validation of permits and requiring recording in counties; providing for duration of permits; providing for denial of permits by Commission; stating application of act; stating penalties for violations; providing for fees; authorizing Commission to promulgate rules; providing for codification; providing for noncodification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.1 of Title 3, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Aircraft Pilot and Passenger Protection Act".

B. It is the intent of this act to regulate the height of structures near public-use airports, thereby protecting the safety and welfare of the flying public; to restrict the use of land in the immediate vicinity of the airport to activities compatible with aircraft operations; to protect the public investment in airport infrastructure; to provide specific powers and duties to the Oklahoma Aeronautics Commission and to provide penalties for violations of this act.

C. Nothing in this act shall prevent or preempt a municipality from adopting ordinances or regulations governing land use that may affect public-use airports.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.2 of Title 3, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Airport reference point" is the geometrical center of all usable runways;

2. "Airport elevation" is the highest point of an airport's usable runways measured in feet from mean sea level;

3. "Commission" means the Oklahoma Aeronautics Commission or a successor agency;

4. “FAA” means the Federal Aviation Administration or a successor agency to the Federal Aviation Administration;

5. “Legal representative” means an official of the airport sponsor who is authorized to legally bind the airport sponsor;

6. “Noise-sensitive area” means an area lying one thousand five hundred (1,500) feet on either side of the centerline and the extended centerline of a runway for a distance of one (1) statute mile from the end of a runway at any public-use airport. Noise-sensitive area shall not include federally owned property;

7. “Noise-sensitive purpose” means the use of a building or structure as a residence, school, church, child-care facility, medical facility, retirement home, nursing home or similar use;

8. “Permit” means a permit issued by the Commission under this act;

9. “Person” means an individual, firm, partnership, corporation, association, or body politic and includes a trustee, receiver, assignee, or other similarly authorized representative of any of them;

10. “Public-use airport” means a structure or an area of land or water that is designed and set aside for the landing and taking off of aircraft, is utilized or to be utilized by and in the interest of the public for the landing and taking off of aircraft and is identified by the FAA as a public-use airport. Public-use airport shall include any military airport solely occupied by any

branch of the federal government for military air purposes. Public-use airport shall not include any privately owned airport for private use as identified by the FAA, or any airport owned by a municipality with a population exceeding five hundred thousand (500,000) according to the most recent federal decennial census;

11. "Runway" means the portion of an airport designated as the area used for the landing or takeoff of aircraft; and

12. "Structure" means any constructed or installed object, including, but not limited to, cranes, buildings, towers, wind turbines, smokestacks, electronic transmission or receiving towers, and antennae and overhead transmission lines. Structure shall include:

a. any aviation navigational aids that are fixed by function, or

b. any construction or installed object on property owned by the federal government.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.3 of Title 3, unless there is created a duplication in numbering, reads as follows:

The construction of a structure used for a noise-sensitive purpose, as defined in Section 2 of this act, within a noise-sensitive area, as defined in Section 2 of this act, constitutes an incompatible use of land near a public-use airport and is regulated by this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.4 of Title 3, unless there is created a duplication in numbering, reads as follows:

A person shall obtain a permit from the Oklahoma Aeronautics Commission prior to the construction or installation of any of the following at a public-use airport:

1. Any structure to be constructed for a noise-sensitive purpose in a noise-sensitive area;

2. Any structure, alteration or addition to a structure that would result in a total structure height in excess of one hundred fifty (150) feet above the established airport elevation and within three (3) statute miles of a public-use airport measured from the airport reference point; or

3. Any structure, alteration or addition to a structure that would result in a greater height than a surface shaped like a trapezoid:

a. longitudinally centered on the extended runway centerline at a public-use airport,

b. beginning two hundred (200) feet beyond the end of each runway pavement and at the runway end elevation,

c. having an inner edge width of one thousand (1,000) feet expanding outward uniformly to a width of sixteen thousand (16,000) feet at the outer edge, and

d. sloping upward for a distance of eleven thousand (11,000) feet at a slope of fifty (50) to one (1), with an additional forty thousand (40,000) feet at a slope of forty (40) to one (1).

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.5 of Title 3, unless there is created a duplication in numbering, reads as follows:

Any structure or alteration to a structure, including a mobile or temporary structure, is presumed to be a hazard to air navigation if it is of greater height than any of the following heights or surfaces at a public-use airport:

1. A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of ten thousand (10,000) feet radii from a point located on the extended runway centerline two hundred (200) feet beyond each end of runway pavement and connecting the adjacent arcs by lines tangent to those arcs with a surface extending outward and upward from the perimeter of this horizontal plane at a slope of twenty (20) to one (1) for a horizontal distance of four thousand (4,000) feet; and

2. A surface shaped like a trapezoid:

a. longitudinally centered on the extended runway centerline,

b. beginning two hundred (200) feet beyond the end of each runway pavement and at the runway end elevation,

c. having an inner edge width of one thousand (1,000) feet expanding outward uniformly to a width of sixteen thousand (16,000) feet at the outer edge, and

d. sloping upward for a distance of eleven thousand (11,000) feet at a slope of fifty (50) to one (1), with an additional forty thousand (40,000) feet at a slope of forty (40) to one (1).

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.6 of Title 3, unless there is created a duplication in numbering, reads as follows:

Any person required to apply for a permit in accordance with the provisions of this act shall provide written notice to the airport owner of a public-use airport thirty (30) days prior to applying for a permit from the Oklahoma Aeronautics Commission. The notice shall be sent by certified or registered mail, with return receipt requested, and must include the following:

1. Contact details of the applicant; i.e., name, telephone number and mailing address;

2. Intended use of the structure;

3. Location of the structure, including the latitude and longitude accurate to within the nearest one hundredth (1/100) of a second based on the North American Datum of 1983 (NAD83);

4. Elevation of the ground above mean sea level (AMSL), elevation of the structure AMSL and height of the structure above ground level (AGL) in feet measured accurate to within twenty (20) feet horizontally and three (3) feet vertically;

5. A copy of the seven-and-one-half-minute U.S. Geological Survey Quadrangle Map with the precise site location marked, on eight and one-half (8 1/2) inches by eleven (11) inches paper; and

6. A copy of the Form 7460-1 as defined in 14 CFR part 77, subpart A, Section 17 that has been filed with the FAA, along with a copy of the FAA determination, including comments by the FAA, if any.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.7 of Title 3, unless there is created a duplication in numbering, reads as follows:

Applications to the Oklahoma Aeronautics Commission for a permit in accordance with the provisions of this act for construction near a public-use airport shall include the following:

1. For construction in a noise-sensitive area, a person applying for a permit in accordance with paragraph 1 of Section 4 of this act must provide the following documents to the Commission:

a. a complete copy of the notice, including all attachments mailed to the airport owner of a public-use airport in accordance with Section 6 of this act and the comments received from the airport owner,

b. the following statement on the applicant's letterhead, signed by a legal representative:

"The applicant acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit experiences or may experience significant levels of aircraft noise, and that the applicant is erecting a building designed for noise-sensitive use upon the real estate, with the full knowledge and acceptance of the aircraft noise as well as any effects resulting from aircraft operations.",

c. a copy of the FAA determination on the proposed construction based on the Form 7460-1 as defined in 14 CFR part 77, subpart A, Section 17, previously submitted to the FAA and provided to the airport owner pursuant to Section 6 of this act, and

d. a completed application in the form prescribed by the Commission; and

2. For construction or alteration of a structure near a public-use airport a person applying for a permit in accordance with paragraph 2 or 3 of Section 4 of this act must provide the following documents to the Commission:

a. a complete copy of the notice, including all attachments submitted to the airport owner of a public-use airport in accordance with Section 6 of

this act and the comments received from the airport owner,

b. a copy of the FAA determination on the proposed construction based on the Form 7460-1 as defined in 14 CFR part 77, subpart A, Section 17, submitted to the FAA and provided to the airport owner pursuant to Section 6 of this act, and

c. a completed application in the form prescribed by the Commission.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.8 of Title 3, unless there is created a duplication in numbering, reads as follows:

A. Upon receiving an application for a permit, the Oklahoma Aeronautics Commission shall determine whether the proposed structure erected in the proposed location is a structure for a noise-sensitive purpose in a noise-sensitive area pursuant to Section 3 of this act and/or whether a structure would be a hazard to air navigation if constructed pursuant to Section 5 of this act. The Commission may take into consideration findings and recommendations of other governmental agencies or interested persons concerning the proposed structure; however, such findings or recommendations are not binding on the Commission.

B. The Commission may consider an application for a permit for a period of sixty (60) days before making a final determination.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.9 of Title 3, unless there is created a duplication in numbering, reads as follows:

Once a permit is issued by the Oklahoma Aeronautics Commission, the applicant shall be required to complete the following steps to complete the permit process:

1. The applicant or applicants for a permit under Section 4 of this act shall record each permit issued by the Commission in the office of the county clerk for the county where the structure is located not later than thirty (30) business days after the Commission issues the permit. If a structure is located in more than one county, the county that contains the majority of the structure is the county in which the permit must be filed. A permit issued under paragraph 1 of Section 4 of this act shall contain the following statement: "The permittee acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit experiences or may experience significant levels of aircraft noise, and that the permittee is erecting a building designed for noise-sensitive purpose upon the real estate, with the full knowledge and acceptance of the aircraft noise as well as any effects resulting from the aircraft operations.";

2. A permit issued in accordance with the provisions of Section 4 of this act is valid only after the Commission receives a certified copy of the recorded permit with the recording data from

the county clerk of the county in which the structure is located; and

3. Every permit granted by the Commission shall specify obstruction markers, markings, lighting, or other visual or aural identification required to be installed on or in the vicinity of the structure, if any. The identification characteristics required shall conform to federal laws and regulations or as prescribed by the Commission. Failure to maintain obstruction lights in an operable condition is a violation of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.10 of Title 3, unless there is created a duplication in numbering, reads as follows:

A permit issued in accordance with the provisions of Section 4 of this act is valid only if the proposed structure has been constructed within five (5) years of the issuance of a permit by the Commission pursuant to Section 9 of this act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.11 of Title 3, unless there is created a duplication in numbering, reads as follows:

A. If the Oklahoma Aeronautics Commission determines that a permit should not be issued under the provisions of this act, the Commission shall notify the applicant in writing of its determination. The notification may be served by delivering it personally to the applicant or by sending it by certified or

registered mail to the applicant at the address specified in the application.

B. The determination is final thirty (30) days after notification of the determination is served, unless the applicant, within the thirty-day period, requests reconsideration in writing to the Commission and provides written evidence that the structure does not violate the provisions of this act. The Commission shall consider the additional written evidence provided for an additional period of thirty (30) days from the receipt of the request. The Commission shall notify the applicant of its determination as specified in subsection A of this section. In the event of a second denial by the Commission of the permit request, the applicant can request a hearing before the Commission with reference to the application. A hearing under this section shall be open to the public. Any person interested may appear and be heard either in person or by counsel and may present pertinent evidence and testimony. At the hearing, the applicant has the burden to show cause why the Commission should have granted the permit to erect the proposed structure.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.12 of Title 3, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall not apply to structures that existed prior to the effective date of this act. Any alterations to existing structures shall be covered by the provisions of this act.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.13 of Title 3, unless there is created a duplication in numbering, reads as follows:

Each violation of this act, or rulings promulgated by the Oklahoma Aeronautics Commission pursuant to this act, shall constitute a misdemeanor punishable by a fine of not more than Five Hundred Dollars ($500.00). Each day that such a violation or failure continues constitutes a separate offense. In addition, the Commission may institute in any court of general jurisdiction, an action to prevent, restrain, correct, or abate any violation of this act or of any rules or orders the Commission issued or ordered under this act. The court may grant such relief, by way of injunction, which may be mandatory, or otherwise, as may be necessary under this act and the applicable rules or orders of the Commission issued under this act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120.14 of Title 3, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Aeronautics Commission shall prepare and charge a schedule of reasonable fees for services rendered, not to exceed Two Hundred Dollars ($200.00) per permit application.

SECTION 15. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Oklahoma Aeronautics Commission is authorized to promulgate any rules necessary to implement the provisions of this act.

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.

52-2-10421 LRB 04/07/10