

AMENDED IN SENATE APRIL 12, 2010

**SENATE BILL**

**No. 1333**

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**Introduced by Senator Yee**

February 19, 2010

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~~An act to amend Section 65100 of the Government Code, relating to land use.~~ *An act to add Section 21669.5 to the Public Utilities Code, relating to aviation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1333, as amended, Yee. ~~Land use: local entities. Airports: aviation easements.~~

*The State Aeronautics Act governs the creation and operation of airports in this state. The act provides for the establishment of county airport land use commissions to carry out various requirements, including the formulation of a comprehensive land use compatibility plan to provide for the orderly growth of the airport and the area surrounding the airport within the jurisdiction of the commission, and to safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The act authorizes any person authorized to exercise the power of eminent domain for airport purposes to acquire by purchase, gift, devise, lease, condemnation, or otherwise airspace or an easement in airspace above the surface of property where necessary to permit imposition upon the property of excessive noise, vibration, discomfort, inconvenience, interference with use and enjoyment, and any consequent reduction in market value, due to the operation of aircraft to and from the airport.*

*This bill would provide that if a political subdivision, as defined, conditions approval of a noise-sensitive project, as defined, upon the grant of an aviation easement, as defined, to the owner or operator*

*of an airport, the aviation easement shall be required to be granted to the owner or operator of the airport prior to the issuance of the building permit that allows construction or reconstruction of the noise-sensitive project. The bill would require that the aviation easement include a termination clause that operates to terminate the aviation easement if the noise-sensitive project is not built and the permit or any permit extension authorizing construction or reconstruction has expired or has been revoked. The bill would require the political subdivision that issued the permit to notify the owner or operator of the airport of the expiration or revocation of the permit within 30 days of its expiration or revocation. The bill would require the owner or operator of the airport to record a notice of termination with the county recorder of the county where the property is located within 90 days after receipt of the notice from the political subdivision, and to provide the political subdivision with proof of filing of the notice of termination within 30 days of it being recorded. By requiring a political subdivision to provide notice of the expiration or revocation of the permit to the owner or operator of an airport and by requiring the recording of a notice of termination, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Existing law establishes the Planning and Zoning Law. Existing law provides within each city and county a planning agency with the powers necessary to carry out the purposes of the Planning and Zoning Law, as specified.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 21669.5 is added to the Public Utilities*  
2     *Code, to read:*

3     21669.5. (a) *For purposes of this section, the following terms*  
4     *have the following meanings:*

5     (1) *“Avigation easement” means a property right that authorizes*  
6     *the use of the airspace above, adjacent to, or in the vicinity of, the*  
7     *property of the permitholder granting the easement, to enable*  
8     *aircraft to take-off from or land on one or more of an airport’s*  
9     *runways, including an easement obtained pursuant to paragraph*  
10    *(2) of subdivision (a) of Section 21652.*

11    (2) *“CNEL” means community noise equivalent level established*  
12    *pursuant to Chapter 6 (commencing with Section 5000) of Division*  
13    *2.5 of Title 21 of the California Code of Regulations.*

14    (3) *“Noise-sensitive land use” means residential uses, including*  
15    *detached single-family dwellings, multifamily dwellings, highrise*  
16    *apartments or condominiums, mobilehomes, public and private*  
17    *educational facilities, hospitals, convalescent homes, churches,*  
18    *synagogues, temples, and other places of worship.*

19    (4) *“Noise-sensitive project” means a project involving new*  
20    *construction or reconstruction for a planned noise-sensitive land*  
21    *use within an airport’s 65 decibels CNEL or higher noise contour.*

22    (b) *If a political subdivision conditions approval of a*  
23    *noise-sensitive project upon the grant of an avigation easement*  
24    *to the owner or operator of an airport, the avigation easement*  
25    *shall be required to be granted to the owner or operator of the*  
26    *airport prior to the issuance of the building permit that allows*  
27    *construction or reconstruction of the noise-sensitive project. The*  
28    *owner or operator of an airport that is granted an avigation*  
29    *easement as a condition for approval of a noise-sensitive project*  
30    *pursuant to this subdivision shall be entitled to immediately record*  
31    *it upon receipt.*

32    (c) *An avigation easement granted to the owner or operator of*  
33    *an airport as a condition for approval of a noise-sensitive project*  
34    *shall include a termination clause that operates to terminate the*  
35    *avigation easement if the noise-sensitive project is not built and*  
36    *the permit or any permit extension authorizing construction or*  
37    *reconstruction of the noise-sensitive project has expired or has*  
38    *been revoked.*

1 (d) Within 30 days after expiration or revocation of a permit or  
2 permit extension that authorized construction or reconstruction  
3 of a noise-sensitive project and was conditioned upon the property  
4 owner granting an avigation easement to the owner or operator  
5 of an airport, the political subdivision that had issued the permit  
6 shall notify the owner or operator of the airport of the expiration  
7 or revocation of the permit. Within 90 days after receipt of the  
8 notice from the political subdivision, the owner or operator of the  
9 airport shall record a notice of termination with the county  
10 recorder in which the property is located. Proof of filing of the  
11 notice of termination shall be provided to the political subdivision  
12 by the owner or operator of the airport within 30 days of  
13 recordation.

14 SEC. 2. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 a local agency or school district has the authority to levy service  
17 charges, fees, or assessments sufficient to pay for the program or  
18 level of service mandated by this act, within the meaning of Section  
19 17556 of the Government Code.

20 However, if the Commission on State Mandates determines that  
21 this act contains other costs mandated by the state, reimbursement  
22 to local agencies and school districts for those costs shall be made  
23 pursuant to Part 7 (commencing with Section 17500) of Division  
24 4 of Title 2 of the Government Code.

25 ~~SECTION 1. Section 65100 of the Government Code is~~  
26 ~~amended to read:~~

27 ~~65100. There is in each city and county a planning agency with~~  
28 ~~the powers that are necessary to carry out the purposes of this title.~~  
29 ~~The legislative body of each city and county shall by ordinance~~  
30 ~~assign the functions of the planning agency to a planning~~  
31 ~~department, one or more planning commissions, administrative~~  
32 ~~bodies or hearing officers, the legislative body itself, or any~~  
33 ~~combination thereof, as it deems appropriate and necessary. In the~~  
34 ~~absence of an assignment, the legislative body shall carry out all~~  
35 ~~the functions of the planning agency.~~