

AMENDED IN SENATE MARCH 24, 2010

SENATE BILL

No. 1141

Introduced by Senator Negrete McLeod

February 18, 2010

An act to amend Sections 21670, 21670.1, 21670.4, ~~21671.5, 21674.7, 21675.1, 21678, 21679, and 21679.5 of, to add Section 21679.3. and 21679 of, and to add Sections 21679.3 and 21689 to, and to repeal Section 21677 of, the Public Utilities Code, relating to airports.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1141, as amended, Negrete McLeod. Airports: airport land use commissions.

(1) 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 airports and the area surrounding airports within the jurisdiction of the commission, and to safeguard the general welfare of the inhabitants within the vicinity of an airport and the public in general. The act requires each county in which there is an airport served by a scheduled airline, with certain exceptions, to establish an airport land use commission. *Existing law additionally requires each county in which there is an airport operated for the benefit of the public to establish an airport land use commission, but authorizes the board of supervisors of a county, upon making certain findings, to declare that the county is exempt from establishing an airport land use commission. Existing law requires that an airport land use commission include in its membership, 2 persons having expertise in aviation, as defined.*

~~Existing law requires each county in which there is an airport operated for the benefit of the public to establish an airport land use commission; but authorizes the board of supervisors of a county in which an airport is located that is operated for the benefit of the general public that is not served by a scheduled airline, after consultation with the appropriate airport operators and affected local entities and after public hearing, to adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county that require the creation of a commission and declaring that the county is exempt from establishing an airport land use commission.~~

~~This bill would eliminate the authority of the board of supervisors of a county in which an airport is located that is operated for the benefit of the general public that is not served by a scheduled airline, to adopt a resolution declaring that the county is exempt from establishing an airport land use commission. By eliminating this authority, the bill would impose a state-mandated local program by requiring a higher level of service.~~

This bill would revise the definition of a person having expertise in aviation.

(2) Existing law provides that, notwithstanding the above-described requirements, if the board of supervisors and the city selection committee of mayors in the county responsible for appointing a commission each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission pursuant to the act, and a commission need not be formed in that county.

~~This bill would require that if the board of supervisors and city selection committee determine that proper land use can be accomplished through the actions of an appropriately designated body, that the body be a countywide body. The bill would make other conforming changes and would delete certain obsolete provisions. By limiting the authority of a board of supervisors to designate a body to assume the planning responsibilities of a commission, the bill would impose a state-mandated local program by requiring a higher level of service~~ *a planning body designated in accordance with these provisions be a countywide body.*

(3) Under existing law, the board of supervisors of a county and each affected city in that county may make a determination that proper land use planning can be accomplished by the county and the affected cities, in which case an airport land use commission need not be formed. If a

commission is not formed pursuant to these provisions, existing law requires the supervisors of the county and each affected city, subject to the review and approval of the Division of Aeronautics, to provide for the preparation of the airport land use compatibility plan, among other things.

~~The bill would eliminate the authority of a county board of supervisors and each affected city to assume the land use planning requirements themselves upon a determination that a commission need not be formed. The bill instead would~~ *additionally* allow a city in which an airport is located to assume the planning responsibilities of an airport land use commission if, prior to January 1, 2011, the board of supervisors of a county and city council of any city in which an airport was located made a determination that the proper land use planning could be accomplished by the city and other requirements are met.

~~The bill would require that if a determination is made by the division that the city has not complied with the requirements of preparing an airport land use compatibility plan by January 1, 2011, then, within 90 days of that determination, the affected airport shall be subject to the airport land use commission.~~

~~By eliminating the authority of a board of supervisors of a county and each affected city in that county to determine that a commission is not required, the bill would impose a state-mandated local program by requiring a higher level of service.~~

(4) Under existing law, the general plan or special plans of a local agency, including a city, county, or special district, are required to be consistent with the airport land use compatibility plan, and each local agency whose general plan or plans includes areas covered by an airport land use compatibility plan is required to submit a copy of its plan, any amendment, any zoning ordinance, and any building regulation, to the airport land use commission, unless exempted, or to the designated body performing planning as an alternative to the airport land use commission. If the plan, amendment, zoning ordinance, or building regulation is inconsistent with the airport land use compatibility plan, the airport land use commission or designated body is required to notify the local agency, and the local agency is required to have a hearing to reconsider its plan or action.

Under existing law, a public agency owning any airport within the boundaries of an airport land use compatibility plan may overrule an airport land use commission's action or recommendation affecting an airport within the jurisdiction of that public agency, after a hearing, by

a $\frac{2}{3}$ vote of its governing body, except the County of Marin, which may overrule by a majority vote of its governing body, if it makes specific findings that the proposed action is consistent with the purposes of protecting public health, safety, and welfare, minimizing the public's exposure to excessive noise, and minimizing safety hazards within areas around the public airport.

This bill would repeal the authority of the County of Marin to overrule an airport land use commission's action or recommendation affecting an airport within the county by a majority vote.

~~(5) Existing law authorizes an airport land use commission to establish a schedule of fees necessary to comply with existing law relative to airport land use commissions and requires that the fees charged to proponents of actions, regulations, or permits not exceed the estimated reasonable cost of providing the service and be imposed pursuant to certain provisions of the Government Code. Existing law prohibits a commission that has not adopted an airport land use compatibility plan by June 30, 1991, from charging fees, with certain exceptions.~~

~~This bill would repeal the prohibition upon a commission charging fees if the commission has not adopted an airport land use compatibility plan by June 30, 1991, and would repeal the exceptions to that prohibition.~~

~~(6)~~

(5) This bill would authorize the division to establish an Airport Land Use Commission Establishment Fund and allocate to that fund certain moneys under its control. The bill would require the division, when it determines that funding is sufficient, to inform counties that do not have an operating airport land use commission of the availability of funds for start-up costs, and would authorize the division to grant fund moneys to counties that apply for funding. The bill would require a county that accepts funding to establish an airport land use commission or designate an appropriate countywide body for that purpose within 12 months, and would prohibit the division from providing further funding to any county that fails to comply with the deadline. *The bill would prohibit the division from making payments from the existing Aeronautics Account to any public entity located within a county without an operating airport land use commission or designated planning body in certain circumstances.*

(7) ~~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.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~-no.

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

1 SECTION 1. Section 21670 of the Public Utilities Code is
2 amended to read:

3 21670. (a) The Legislature hereby finds and declares that:

4 (1) It is in the public interest to provide for the orderly
5 development of each public use airport in this state and the area
6 surrounding these airports so as to promote the overall goals and
7 objectives of the California airport noise standards adopted
8 pursuant to Section 21669 and to prevent the creation of new noise
9 and safety problems.

10 (2) It is the purpose of this article to protect public health, safety,
11 and welfare by ensuring the orderly expansion of airports and the
12 adoption of land use measures that minimize the public's exposure
13 to excessive noise and safety hazards within areas around public
14 airports to the extent that these areas are not already devoted to
15 incompatible uses.

16 (b) In order to achieve the purposes of this article, every county
17 in which there is located an airport which is served by a scheduled
18 airline shall establish an airport land use commission. Every
19 county, in which there is located an airport which is not served by
20 a scheduled airline, but is operated for the benefit of the general
21 public, shall establish an airport land use ~~commission~~. *commission,*
22 *except that the board of supervisors of the county, after*
23 *consultation with the appropriate airport operators and affected*
24 *local entities and after a public hearing, may adopt a resolution*
25 *finding that there are no noise, public safety, or land use issues*
26 *affecting any airport in the county that require the creation of a*
27 *commission and declaring the county exempt from that*
28 *requirement. The board, in this event, shall transmit a copy of the*
29 *resolution to the Director of Transportation.* For purposes of this
30 section, "commission" means an airport land use commission.

1 Each commission shall consist of seven members to be selected
2 as follows:

3 (1) Two representing the cities in the county, appointed by a
4 city selection committee comprised of the mayors of all the cities
5 within that county, except that if there are any cities contiguous
6 or adjacent to the qualifying airport, at least one representative
7 shall be appointed therefrom. If there are no cities within a county,
8 the number of representatives provided for by paragraphs (2) and
9 (3) shall each be increased by one.

10 (2) Two representing the county, appointed by the board of
11 supervisors.

12 (3) Two having expertise in aviation, appointed by a selection
13 committee comprised of the managers of all of the public airports
14 within that county.

15 (4) One representing the general public, appointed by the other
16 six members of the commission.

17 (c) Public officers, whether elected or appointed, may be
18 appointed and serve as members of the commission during their
19 terms of public office.

20 (d) Each member shall promptly appoint a single proxy to
21 represent him or her in commission affairs and to vote on all
22 matters when the member is not in attendance. The proxy shall be
23 designated in a signed written instrument which shall be kept on
24 file at the commission offices, and the proxy shall serve at the
25 pleasure of the appointing member. A vacancy in the office of
26 proxy shall be filled promptly by appointment of a new proxy.

27 (e) A person having an “expertise in aviation” means a person
28 who, by way of education, training, business, experience, vocation,
29 or avocation has acquired and possesses particular knowledge of,
30 and familiarity with, the function, operation, and role of airports.

31 (f) It is the intent of the Legislature to clarify, for the purposes
32 of this article, that special districts, school districts, and community
33 college districts are included among the local agencies that are
34 subject to airport land use laws and other requirements of this
35 article.

36 ~~SEC. 2. Section 21670.1 of the Public Utilities Code is~~
37 ~~amended to read:~~

38 ~~21670.1. (a) Notwithstanding any other provision of this~~
39 ~~article, if the board of supervisors and the city selection committee~~
40 ~~of mayors in the county each makes a determination by a majority~~

1 vote that proper land use planning can be accomplished through
2 the actions of an appropriately designated countywide body, then
3 the body so designated shall assume the planning responsibilities
4 of an airport land use commission as provided for in this article,
5 and a commission need not be formed in that county.

6 (b) ~~A body designated pursuant to subdivision (a) that does not~~
7 ~~include among its membership at least two members having~~
8 ~~expertise in aviation, as defined in subdivision (e) of Section 21670;~~
9 ~~shall, when acting in the capacity of an airport land use~~
10 ~~commission, be augmented so that body, as augmented, will have~~
11 ~~at least two members having that expertise.~~

12 (c) ~~(1) Notwithstanding subdivisions (a) and (b), and~~
13 ~~subdivision (b) of Section 21670, if, prior to January 1, 2011, the~~
14 ~~board of supervisors of a county and the city council of any city~~
15 ~~in which an airport was located each made a determination that~~
16 ~~proper land use planning pursuant to this article could be~~
17 ~~accomplished pursuant to this subdivision, that city may assume~~
18 ~~the planning responsibilities of an airport land use commission as~~
19 ~~provided for in this article for an affected airport, if all of the~~
20 ~~following conditions are met:~~

21 (A) ~~The affected airport is certified by the Federal Aviation~~
22 ~~Administration of the United States Department of Transportation~~
23 ~~pursuant to Part 139 (commencing with Section 139.1) of Title 14~~
24 ~~of the Code of Federal Regulations.~~

25 (B) ~~The affected airport has a noise compatibility program in~~
26 ~~effect approved by the Federal Aviation Administration pursuant~~
27 ~~to Part 150 (commencing with Section 150.1) of Title 14 of the~~
28 ~~Code of Federal Regulations.~~

29 (C) ~~The affected airport is owned and operated by an agency~~
30 ~~that is headquartered in a county other than the county in which~~
31 ~~the airport is located.~~

32 (2) ~~If the board of supervisors of a county and a city council~~
33 ~~made a determination pursuant to paragraph (1), the city council,~~
34 ~~subject to the review and approval by the Division of Aeronautics~~
35 ~~of the department, shall do all of the following:~~

36 (A) ~~Adopt processes for the preparation, adoption, and~~
37 ~~amendment of the airport land use compatibility plan for each~~
38 ~~airport that is served by a scheduled airline or operated for the~~
39 ~~benefit of the general public.~~

1 ~~(B) Adopt processes for the notification of the general public;~~
2 ~~landowners, interested groups, and other public agencies regarding~~
3 ~~the preparation, adoption, and amendment of the airport land use~~
4 ~~compatibility plans.~~

5 ~~(C) Adopt processes for the mediation of disputes arising from~~
6 ~~the preparation, adoption, and amendment of the airport land use~~
7 ~~compatibility plans.~~

8 ~~(D) Adopt processes for the amendment of general and specific~~
9 ~~plans to be consistent with the airport land use compatibility plans.~~

10 ~~(E) Designate the agency that shall be responsible for the~~
11 ~~preparation, adoption, and amendment of each airport land use~~
12 ~~compatibility plan.~~

13 ~~(3) The Division of Aeronautics of the department shall review~~
14 ~~the processes adopted pursuant to paragraph (2), and shall approve~~
15 ~~the processes if the division determines that the processes are~~
16 ~~consistent with the procedure required by this article and will do~~
17 ~~all of the following:~~

18 ~~(A) Result in the preparation, adoption, and implementation of~~
19 ~~plans within a reasonable amount of time.~~

20 ~~(B) Rely on the height, use, noise, safety, and density criteria~~
21 ~~that are compatible with airport operations, as established by this~~
22 ~~article, and referred to as the Airport Land Use Planning Handbook,~~
23 ~~published by the division, and any applicable federal aviation~~
24 ~~regulations, including, but not limited to, Part 77 (commencing~~
25 ~~with Section 77.1) of Title 14 of the Code of Federal Regulations.~~

26 ~~(C) Provide adequate opportunities for notice to, review of, and~~
27 ~~comment by the general public, landowners, interested groups,~~
28 ~~and other public agencies.~~

29 ~~(4) If the city does not comply with the requirements of~~
30 ~~paragraph (2) by January 1, 2011, the affected airport is subject~~
31 ~~to the airport land use commission within 90 days of the~~
32 ~~determination of noncompliance by the division.~~

33 *SEC. 2. Section 21670.1 of the Public Utilities Code is amended*
34 *to read:*

35 21670.1. (a) Notwithstanding any other provision of this
36 article, if the board of supervisors and the city selection committee
37 of mayors in the county each makes a determination by a majority
38 vote that proper land use planning can be accomplished through
39 the actions of an appropriately designated *countywide* body, then
40 the body so designated shall assume the planning responsibilities

1 of an airport land use commission as provided for in this article,
2 and a commission need not be formed in that county.

3 (b) A body designated pursuant to subdivision (a) that does not
4 include among its membership at least two members having
5 expertise in aviation, as defined in subdivision (e) of Section 21670,
6 shall, when acting in the capacity of an airport land use
7 commission, be augmented so that body, as augmented, will have
8 at least two members having that expertise. ~~The commission shall~~
9 ~~be constituted pursuant to this section on and after March 1, 1988.~~

10 (c) (1) Notwithstanding subdivisions (a) and (b), and
11 subdivision (b) of Section 21670, if the board of supervisors of a
12 county and each affected city in that county each makes a
13 determination that proper land use planning pursuant to this article
14 can be accomplished pursuant to this subdivision, then a
15 commission need not be formed in that county.

16 (2) If the board of supervisors of a county and each affected
17 city makes a determination that proper land use planning may be
18 accomplished and a commission is not formed pursuant to
19 paragraph (1), that county and the appropriate affected cities having
20 jurisdiction over an airport, subject to the review and approval by
21 the Division of Aeronautics of the department, shall do all of the
22 following:

23 (A) Adopt processes for the preparation, adoption, and
24 amendment of the airport land use compatibility plan for each
25 airport that is served by a scheduled airline or operated for the
26 benefit of the general public.

27 (B) Adopt processes for the notification of the general public,
28 landowners, interested groups, and other public agencies regarding
29 the preparation, adoption, and amendment of the airport land use
30 compatibility plans.

31 (C) Adopt processes for the mediation of disputes arising from
32 the preparation, adoption, and amendment of the airport land use
33 compatibility plans.

34 (D) Adopt processes for the amendment of general and specific
35 plans to be consistent with the airport land use compatibility plans.

36 (E) Designate the agency that shall be responsible for the
37 preparation, adoption, and amendment of each airport land use
38 compatibility plan.

39 (3) The Division of Aeronautics of the department shall review
40 the processes adopted pursuant to paragraph (2), and shall approve

1 the processes if the division determines that the processes are
2 consistent with the procedure required by this article and will do
3 all of the following:

4 (A) Result in the preparation, adoption, and implementation of
5 plans within a reasonable amount of time.

6 (B) Rely on the height, use, noise, safety, and density criteria
7 that are compatible with airport operations, as established by this
8 article, and referred to as the Airport Land Use Planning Handbook,
9 published by the division, and any applicable federal aviation
10 regulations, including, but not limited to, Part 77 (commencing
11 with Section 77.1) of Title 14 of the Code of Federal Regulations.

12 (C) Provide adequate opportunities for notice to, review of, and
13 comment by the general public, landowners, interested groups,
14 and other public agencies.

15 (4) If the county does not comply with the requirements of
16 paragraph (2) within 120 days, then the airport land use
17 compatibility plan and amendments shall not be considered adopted
18 pursuant to this article and a commission shall be established within
19 90 days of the determination of noncompliance by the division
20 and an airport land use compatibility plan shall be adopted pursuant
21 to this article within 90 days of the establishment of the
22 commission.

23 *(d) (1) Notwithstanding subdivisions (a) and (b), and*
24 *subdivision (b) of Section 21670, if, prior to January 1, 2011, the*
25 *board of supervisors of a county and the city council of any city*
26 *in which an airport was located each made a determination that*
27 *proper land use planning pursuant to this article could be*
28 *accomplished pursuant to this subdivision, that city may assume*
29 *the planning responsibilities of an airport land use commission*
30 *as provided for in this article for an affected airport, if all of the*
31 *following conditions are met:*

32 *(A) The affected airport is certified by the Federal Aviation*
33 *Administration of the United States Department of Transportation*
34 *pursuant to Part 139 (commencing with Section 139.1) of Title 14*
35 *of the Code of Federal Regulations.*

36 *(B) The affected airport has a noise compatibility program in*
37 *effect approved by the Federal Aviation Administration pursuant*
38 *to Part 150 (commencing with Section 150.1) of Title 14 of the*
39 *Code of Federal Regulations.*

1 (C) *The affected airport is owned and operated by an agency*
2 *that is headquartered in a county other than the county in which*
3 *the airport is located.*

4 (2) *If the board of supervisors of a county and a city council*
5 *made a determination pursuant to paragraph (1), the city council,*
6 *subject to the review and approval by the Division of Aeronautics*
7 *of the department, shall do all of the following:*

8 (A) *Adopt processes for the preparation, adoption, and*
9 *amendment of the airport land use compatibility plan for each*
10 *airport that is served by a scheduled airline or operated for the*
11 *benefit of the general public.*

12 (B) *Adopt processes for the notification of the general public,*
13 *landowners, interested groups, and other public agencies regarding*
14 *the preparation, adoption, and amendment of the airport land use*
15 *compatibility plans.*

16 (C) *Adopt processes for the mediation of disputes arising from*
17 *the preparation, adoption, and amendment of the airport land use*
18 *compatibility plans.*

19 (D) *Adopt processes for the amendment of general and specific*
20 *plans to be consistent with the airport land use compatibility plans.*

21 (E) *Designate the agency that shall be responsible for the*
22 *preparation, adoption, and amendment of each airport land use*
23 *compatibility plan.*

24 (3) *The Division of Aeronautics of the department shall review*
25 *the processes adopted pursuant to paragraph (2), and shall*
26 *approve the processes if the division determines that the processes*
27 *are consistent with the procedure required by this article and will*
28 *do all of the following:*

29 (A) *Result in the preparation, adoption, and implementation of*
30 *plans within a reasonable amount of time.*

31 (B) *Rely on the height, use, noise, safety, and density criteria*
32 *that are compatible with airport operations, as established by this*
33 *article, and referred to as the Airport Land Use Planning*
34 *Handbook, published by the division, and any applicable federal*
35 *aviation regulations, including, but not limited to, Part 77*
36 *(commencing with Section 77.1) of Title 14 of the Code of Federal*
37 *Regulations.*

38 (C) *Provide adequate opportunities for notice to, review of, and*
39 *comment by, the general public, landowners, interested groups,*
40 *and other public agencies.*

1 (4) *If the city has not complied with the requirements of*
2 *paragraph (2) by January 1, 2011, the affected airport is subject*
3 *to the airport land use commission within 90 days of the*
4 *determination of noncompliance by the division.*

5 ~~(d)~~

6 (e) A commission need not be formed in a county that has
7 contracted for the preparation of airport land use compatibility
8 plans with the Division of Aeronautics under the California Aid
9 to Airports Program (Chapter 4 (commencing with Section 4050)
10 of Title 21 of the California Code of Regulations), Project
11 Ker-VAR 90-1, and that submits all of the following information
12 to the Division of Aeronautics for review and comment that the
13 county and the cities affected by the airports within the county, as
14 defined by the airport land use compatibility plans:

15 (1) Agree to adopt and implement the airport land use
16 compatibility plans that have been developed under contract.

17 (2) Incorporated the height, use, noise, safety, and density
18 criteria that are compatible with airport operations as established
19 by this article, and referred to as the Airport Land Use Planning
20 Handbook, published by the division, and any applicable federal
21 aviation regulations, including, but not limited to, Part 77
22 (commencing with Section 77.1) of Title 14 of the Code of Federal
23 Regulations, as part of the general and specific plans for the county
24 and for each affected city.

25 (3) If the county does not comply with this subdivision on or
26 before May 1, 1995, then a commission shall be established in
27 accordance with this article.

28 ~~(e)~~

29 (f) (1) A commission need not be formed in a county if all of
30 the following conditions are met:

31 (A) The county has only one public use airport that is owned
32 by a city.

33 (B) (i) The county and the affected city adopt the elements in
34 paragraph (2) of subdivision ~~(d)~~ (e), as part of their general and
35 specific plans for the county and the affected city.

36 (ii) The general and specific plans shall be submitted, upon
37 adoption, to the Division of Aeronautics. If the county and the
38 affected city do not submit the elements specified in paragraph (2)
39 of subdivision ~~(d)~~ (e), on or before May 1, 1996, then a commission
40 shall be established in accordance with this article.

SEC. 3. Section 21670.4 of the Public Utilities Code is amended to read:

21670.4. (a) As used in this section, “intercounty airport” means any airport bisected by a county line through its runways, runway protection zones, inner safety zones, inner turning zones, outer safety zones, or sideline safety zones, as defined by the department’s Airport Land Use Planning Handbook and referenced in the airport land use compatibility plan formulated under Section 21675.

(b) It is the purpose of this section to provide the opportunity to establish a separate airport land use commission so that an intercounty airport may be served by a single airport land use planning agency, rather than having to look separately to the airport land use commissions of the affected counties.

(c) In addition to the airport land use commissions created under Section 21670, or the alternative planning undertaken pursuant to ~~subdivision (e)~~ *subdivisions (c) or (d)* of Section 21670.1, for their respective counties, the boards of supervisors and city selection committees for the affected counties, by independent majority vote of each county’s two delegations, for any intercounty airport, may do either of the following:

(1) Establish a single separate airport land use commission for the airport. The airport land use commission shall consist of seven members to be selected as follows:

(A) One representing the cities in each of the counties, appointed by that county’s city selection committee.

(B) One representing each of the counties, appointed by the board of supervisors of each county.

(C) One from each county having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.

(D) One representing the general public, appointed by the other six members of the commission.

(2) Designate an existing appropriate countywide entity as that airport’s land use commission pursuant to subdivision (a) or (b) of Section 21670.1.

~~SEC. 4. Section 21671.5 of the Public Utilities Code is amended to read:~~

~~21671.5. (a) Except for the terms of office of the members of the first commission, the term of office of each member shall be~~

1 four years and until the appointment and qualification of his or her
2 successor. The members of the first commission shall classify
3 themselves by lot so that the term of office of one member is one
4 year, of two members is two years, of two members is three years,
5 and of two members is four years. The body that originally
6 appointed a member whose term has expired shall appoint his or
7 her successor for a full term of four years. Any member may be
8 removed at any time and without cause by the body appointing
9 that member. The expiration date of the term of office of each
10 member shall be the first Monday in May in the year in which that
11 member's term is to expire. Any vacancy in the membership of
12 the commission shall be filled for the unexpired term by
13 appointment by the body which originally appointed the member
14 whose office has become vacant. The chairperson of the
15 commission shall be selected by the members thereof.

16 (b) Compensation, if any, shall be determined by the board of
17 supervisors.

18 (c) Staff assistance, including the mailing of notices and the
19 keeping of minutes and necessary quarters, equipment, and supplies
20 shall be provided by the county. The usual and necessary operating
21 expenses of the commission shall be a county charge.

22 (d) Notwithstanding any other provisions of this article, the
23 commission shall not employ any personnel either as employees
24 or independent contractors without the prior approval of the board
25 of supervisors.

26 (e) The commission shall meet at the call of the commission
27 chairperson or at the request of the majority of the commission
28 members. A majority of the commission members shall constitute
29 a quorum for the transaction of business. No action shall be taken
30 by the commission except by the recorded vote of a majority of
31 the full membership.

32 (f) The commission may establish a schedule of fees necessary
33 to comply with this article. Those fees shall be charged to the
34 proponents of actions, regulations, or permits, shall not exceed the
35 estimated reasonable cost of providing the service, and shall be
36 imposed pursuant to Section 66016 of the Government Code.

37 SEC. 5. Section 21674.7 of the Public Utilities Code is
38 amended to read:

39 21674.7. (a) An airport land use commission that formulates,
40 adopts, or amends an airport land use compatibility plan shall be

1 ~~guided by information prepared and updated pursuant to Section~~
2 ~~21674.5 and referred to as the Airport Land Use Planning~~
3 ~~Handbook published by the Division of Aeronautics of the~~
4 ~~Department of Transportation.~~

5 (b) ~~It is the intent of the Legislature to discourage incompatible~~
6 ~~land uses near existing airports. Therefore, prior to granting permits~~
7 ~~for the renovation or remodeling of an existing building, structure,~~
8 ~~or facility, and before the construction of a new building, it is the~~
9 ~~intent of the Legislature that local agencies shall be guided by the~~
10 ~~height, use, noise, safety, and density criteria that are compatible~~
11 ~~with airport operations, as established by this article, and referred~~
12 ~~to as the Airport Land Use Planning Handbook, published by the~~
13 ~~division, and any applicable federal aviation regulations, including,~~
14 ~~but not limited to, Part 77 (commencing with Section 77.1) of Title~~
15 ~~14 of the Code of Federal Regulations, to the extent that the criteria~~
16 ~~has been incorporated into the plan prepared by a commission~~
17 ~~pursuant to Section 21675. This subdivision does not limit the~~
18 ~~jurisdiction of a commission as established by this article. This~~
19 ~~subdivision does not limit the authority of local agencies to overrule~~
20 ~~commission actions or recommendations pursuant to Section 21676~~
21 ~~or 21676.5.~~

22 ~~SEC. 6.~~

23 ~~SEC. 4.~~ Section 21675.1 of the Public Utilities Code is amended
24 to read:

25 21675.1. (a) Until a commission adopts an airport land use
26 compatibility plan, a city or county shall first submit all actions,
27 regulations, and permits within the vicinity of a public airport to
28 the commission for review and approval. Before the commission
29 approves or disapproves any actions, regulations, or permits, the
30 commission shall provide public notice in the same manner as the
31 city or county is required to provide for those actions, regulations,
32 or permits. As used in this section, “vicinity” means land that will
33 be included or reasonably could be included within the airport land
34 use compatibility plan. If the commission has not designated an
35 airport influence area for the airport land use compatibility plan,
36 “vicinity” means land within two miles of the boundary of a public
37 airport.

38 (b) The commission may approve an action, regulation, or permit
39 if it finds, based on substantial evidence in the record, all of the
40 following:

1 (1) The commission is making substantial progress toward the
2 completion of the airport land use compatibility plan.

3 (2) There is a reasonable probability that the action, regulation,
4 or permit will be consistent with the airport land use compatibility
5 plan being prepared by the commission.

6 (3) There is little or no probability of substantial detriment to
7 or interference with the future adopted airport land use
8 compatibility plan if the action, regulation, or permit is ultimately
9 inconsistent with the airport land use compatibility plan.

10 (c) If the commission disapproves an action, regulation, or
11 permit, the commission shall notify the city or county. The city or
12 county may overrule the commission, by a two-thirds vote of its
13 governing body, if it makes specific findings that the proposed
14 action, regulation, or permit is consistent with the purposes of this
15 article, as stated in Section 21670.

16 (d) If a city or county overrules the commission pursuant to
17 subdivision (c), that action shall not relieve the city or county from
18 further compliance with this article after the commission adopts
19 the airport land use compatibility plan.

20 (e) If a city or county overrules the commission pursuant to
21 subdivision (c) with respect to a public use airport that the city or
22 county does not operate, the operator of the airport is not liable
23 for damages to property or personal injury resulting from the city's
24 or county's decision to proceed with the action, regulation, or
25 permit.

26 (f) A commission may adopt rules and regulations that exempt
27 any ministerial permit for single-family dwellings from the
28 requirements of subdivision (a) if it makes the findings required
29 pursuant to subdivision (b) for the proposed rules and regulations,
30 except that the rules and regulations may not exempt ~~single-family~~
31 ~~dwellings in a subdivision where 25 percent or more of the parcels~~
32 ~~are undeveloped~~; *either of the following:*

33 (1) *More than two single-family dwellings by the same applicant*
34 *within a subdivision prior to June 30, 1991.*

35 (2) *Single-family dwellings in a subdivision where 25 percent*
36 *or more of the parcels are undeveloped.*

37 ~~SEC. 7.~~

38 *SEC. 5.* Section 21677 of the Public Utilities Code is repealed.

1 ~~SEC. 8.~~

2 ~~SEC. 6.~~ Section 21678 of the Public Utilities Code is amended
3 to read:

4 21678. With respect to a public use airport that a public agency
5 does not operate, if the public agency pursuant to Section 21676
6 or 21676.5 overrules a commission's action or recommendation,
7 the operator of the airport shall be immune from liability for
8 damages to property or personal injury caused by or resulting
9 directly or indirectly from the public agency's decision to overrule
10 the commission's action or recommendation.

11 ~~SEC. 9.~~ Section 21679 of the Public Utilities Code is amended
12 to read:

13 ~~21679. (a) In any county in which the airport land use~~
14 ~~commission or other designated body has not adopted an airport~~
15 ~~land use compatibility plan, an interested party may initiate~~
16 ~~proceedings in a court of competent jurisdiction to postpone the~~
17 ~~effective date of a zoning change, a zoning variance, the issuance~~
18 ~~of a permit, or the adoption of a regulation by a local agency, that~~
19 ~~directly affects the use of land within one mile of the boundary of~~
20 ~~a public airport within the county.~~

21 ~~(b) The court may issue an injunction that postpones the~~
22 ~~effective date of the zoning change, zoning variance, permit, or~~
23 ~~regulation until the governing body of the local agency that took~~
24 ~~the action does one of the following:~~

25 ~~(1) In the case of an action that is a legislative act, adopts a~~
26 ~~resolution declaring that the proposed action is consistent with the~~
27 ~~purposes of this article stated in Section 21670.~~

28 ~~(2) In the case of an action that is not a legislative act, adopts a~~
29 ~~resolution making findings based on substantial evidence in the~~
30 ~~record that the proposed action is consistent with the purposes of~~
31 ~~this article stated in Section 21670.~~

32 ~~(3) Rescinds the action.~~

33 ~~(4) Amends its action to make it consistent with the purposes~~
34 ~~of this article stated in Section 21670, and complies with either~~
35 ~~paragraph (1) or (2), whichever is applicable.~~

36 ~~(c) The court shall not issue an injunction pursuant to~~
37 ~~subdivision (b) if the local agency that took the action demonstrates~~
38 ~~that the general plan and any applicable specific plan of the agency~~
39 ~~accomplishes the purposes of an airport land use compatibility~~
40 ~~plan as provided in Section 21675.~~

~~(d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever is longer.~~

~~(e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a public-use airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.~~

~~(f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.~~

SEC. 7. Section 21679 of the Public Utilities Code is amended to read:

21679. (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use compatibility plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, that directly affects the use of land within one mile of the boundary of a public airport within the county.

(b) The court may issue an injunction that postpones the effective date of the zoning change, zoning variance, permit, or regulation until the governing body of the local agency that took the action does one of the following:

(1) In the case of an action that is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.

(2) In the case of an action that is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.

(3) Rescinds the action.

1 (4) Amends its action to make it consistent with the purposes
2 of this article stated in Section 21670, and complies with either
3 paragraph (1) or (2), whichever is applicable.

4 (c) The court shall not issue an injunction pursuant to
5 subdivision (b) if the local agency that took the action demonstrates
6 that the general plan and any applicable specific plan of the agency
7 accomplishes the purposes of an airport land use compatibility
8 plan as provided in Section 21675.

9 (d) An action brought pursuant to subdivision (a) shall be
10 commenced within 30 days of the decision or within the appropriate
11 time periods set by Section 21167 of the Public Resources Code,
12 whichever is longer.

13 (e) If the governing body of the local agency adopts a resolution
14 pursuant to subdivision (b) with respect to a ~~publicly-owned~~ *public*
15 *use* airport that the local agency does not operate, the operator of
16 the airport shall be immune from liability for damages to property
17 or personal injury from the local agency's decision to proceed with
18 the zoning change, zoning variance, permit, or regulation.

19 (f) As used in this section, "interested party" means any owner
20 of land within two miles of the boundary of the airport or any
21 organization with a demonstrated interest in airport safety and
22 efficiency.

23 ~~SEC. 10.~~

24 *SEC. 8.* Section 21679.3 is added to the Public Utilities Code,
25 to read:

26 21679.3. (a) "Fund" means the Airport Land Use Commission
27 Establishment Fund established pursuant to subdivision (b).

28 (b) The division may establish an Airport Land Use Commission
29 Establishment Fund and allocate to that fund moneys under its
30 control, including, but not limited to, existing grant funds and
31 federal funds, if the division determines that the use of the moneys
32 for the purposes of this section is consistent with state and federal
33 law.

34 (c) When the division determines that funding is sufficient, the
35 division shall inform counties that do not have an operating airport
36 land use commission of the availability of funds for airport land
37 use commission start-up costs, and may grant fund moneys for
38 that purpose to counties that apply for funding.

39 (d) A county that accepts funding pursuant to this section shall
40 establish an airport land use commission or designate an

1 appropriate countywide body for that purpose within 12 months
2 of that acceptance. The division shall not provide further funding
3 pursuant to this section to any county that has accepted funding
4 and failed to comply with this subdivision.

5 ~~SEC. 11. Section 21679.5 of the Public Utilities Code is~~
6 ~~amended to read:~~

7 ~~21679.5. (a) No action pursuant to Section 21679 to postpone~~
8 ~~the effective date of a zoning change, a zoning variance, the~~
9 ~~issuance of a permit, or the adoption of a regulation by a local~~
10 ~~agency, directly affecting the use of land within one mile of the~~
11 ~~boundary of a public airport, shall be commenced in any county~~
12 ~~in which the commission or other designated body has not adopted~~
13 ~~an airport land use compatibility plan, but is making substantial~~
14 ~~progress toward the completion of the airport land use compatibility~~
15 ~~plan.~~

16 ~~(b) An action to postpone the effective date of a zoning change,~~
17 ~~a zoning variance, the issuance of a permit, or the adoption of a~~
18 ~~regulation by a local agency, directly affecting the use of land~~
19 ~~within one mile of the boundary of a public airport for which an~~
20 ~~airport land use compatibility plan has not been adopted shall be~~
21 ~~commenced within 30 days of the decision by the local agency,~~
22 ~~or within the appropriate time periods set by Section 21167 of the~~
23 ~~Public Resources Code, whichever date is later.~~

24 ~~SEC. 12. No reimbursement is required by this act pursuant~~
25 ~~to Section 6 of Article XIII B of the California Constitution because~~
26 ~~a local agency or school district has the authority to levy service~~
27 ~~charges, fees, or assessments sufficient to pay for the program or~~
28 ~~level of service mandated by this act, within the meaning of Section~~
29 ~~17556 of the Government Code.~~

30 *SEC. 9. Section 21689 is added to the Public Utilities Code,*
31 *to read:*

32 *21689. (a) If the division determines that funding is sufficient*
33 *and informs counties that do not have an operating airport land*
34 *use commission of the availability of funds for airport land use*
35 *commission start-up costs pursuant to subdivision (c) of Section*
36 *21679.3, except for funding from the Airport Land Use Commission*
37 *Establishment Fund pursuant to that section, no payment shall be*
38 *made from the Aeronautics Account to any public entity located*
39 *within a county without an operating airport land use commission,*
40 *operating countywide alternative planning body designated*

1 pursuant to subdivision (c) or (d) of Section 21670.1, or operating
2 alternative planning body designated by statute in Section 21670.2
3 or 21670.3.

4 (b) The prohibition in subdivision (a) does not apply to a public
5 entity in a county that has applied for funding to establish an
6 airport land use commission pursuant to Section 21679.3, so long
7 as the county has not exceeded the 12-month period in subdivision
8 (d) of that section, to establish a commission following acceptance
9 of funding.

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