

SENATE BILL REPORT

SB 5955

As Reported by Senate Committee On:
Local Government, Land Use & Tribal Affairs, January 30, 2024

Title: An act relating to mitigating harm and improving equity in large port districts.

Brief Description: Mitigating harm and improving equity in large port districts.

Sponsors: Senators Keiser, Hasegawa, Kauffman, Nguyen and Wilson, C..

Brief History:

Committee Activity: Local Government, Land Use & Tribal Affairs: 1/16/24, 1/30/24
[DPS-WM, w/oRec].

Brief Summary of First Substitute Bill

- Requires a port district operating an airport serving more than 900 daily flights and authorized to undertake a noise abatement program to undertake a remedial mitigation program.
- Requires a port district that meets this criteria to utilize a portion of its annual property tax levy revenue for the purpose of administering a remedial mitigation program.
- Establishes the port district environmental equity fund for purposes of providing grants or loans to ports undertaking remedial action plans or complying with requirements related to significant port actions.
- Requires the Department of Commerce to provide management services for the port district environmental equity fund and prepare and publish an annual report detailing the grants and loans made under this program.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: That Substitute Senate Bill No. 5955 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Kauffman and Short.

Minority Report: That it be referred without recommendation.

Signed by Senator Torres, Ranking Member.

Staff: Maggie Douglas (786-7279)

Background: Noise abatement programs generally focus on reducing the noise produced by aircraft while on the ground, during takeoffs and landings, and during flights over populated areas.

A port district that operates an airport serving more than 900 scheduled jet aircraft flights per day may undertake a program of aircraft noise abatement within impacted areas. Impacted areas are limited to:

- more than 10 miles beyond the paved north end of any runway;
- more than 13 miles beyond the south end paved end of any runway; or
- more than 2 miles from the centerline of any runway extending 6 miles north and 13 miles south from the paved end of such runway.

The port district may employ remedial programs for noise abatement. Among other items, the aircraft noise abatement program may include the purchasing of property, transaction assistance—assistance for selling a home, soundproofing structures, and mortgage insurance for private landowners who are unable to obtain mortgage insurance due to the noise impact.

A port district may establish a fund for the purposes of the noise abatement program. The fund may be financed by the proceeds of any grants or loans made by federal agencies, rentals, charges and other revenues related to the noise abatement program, airport revenues, and revenue bonds based upon such revenues.

Summary of Bill (First Substitute): Remedial Mitigation Program—Overview. A port district authorized to undertake noise abatement programs must also undertake a remedial mitigation program. A remedial mitigation program must include:

- the repair or replacement of failed mitigation equipment;
- the provision of sound mitigation equipment to residential, recreational, or educational facilities that will measurably reduce or mitigate the impacts of aircraft noise;
- the provision of air quality mitigation equipment to residential, recreational, or educational facilities that will measurably improve air quality;
- programs to provide urban forests or green space within an impacted area;
- provision or support of indoor recreation facilities available to the community within an impacted area; and

- the provision of indoor community greenhouses within an impacted area.

An individual property may qualify for the individual benefit under a remedial mitigation program if the property:

- has been determined, by an inspection, to have been provided mitigation equipment that failed;
- is located within ten miles of an airport and subject to levels of aircraft noise of a day-night average sound level of 55 decibels or more, regardless of whether the property previously received benefits under the noise abatement program; and
- is located within both five miles of the end of a runway used for jet landings and within a two mile radius of the landing path used by jets, regardless of whether the property previously received benefits under the noise abatement program.

A port district must prioritize remedial mitigation programs in the following order:

- properties that have failed mitigation equipment;
- sound and air quality mitigation equipment for properties located within ten miles of an airport and subject to levels of aircraft noise of a day-night average sound level of 55 decibels or more or within both five miles of the end of a runway used for jet landings and within a two mile radius of the landing path used by jets; and
- other qualifying properties.

A port district may not require, as a condition of a property receiving individual benefit under the program, the provision of an unconditional right of easement for the operation of aircraft and for noise or noise conditions associated with aircraft.

Inspections. A port district required to undertake a remedial mitigation program must enter into an interlocal agreement with the county in which the port is located for the provision of a qualified building inspector or inspectors to conduct inspections as required by the program.

If the port district cannot enter an interlocal agreement with the county, it must contract with independent qualified building inspectors to conduct the required inspections and publish a report detailing the aggregate results of the inspections of the year prior no later than February 1st of each year.

Inspections, whether provided by the county or by contract, must be provided at no cost upon request of the owner of a residential or educational facility located within the impacted area. An inspection may not be provided more than once every five years to an individual property unless, following an inspection, the inspector recommends inspections occur at a shorter interval.

Publications. A port district required to undertake a remedial mitigation program must prepare a pamphlet or document detailing government assistance programs available to assist property owners with maintenance, repairs, energy assistance, or updating electrical

systems within an impacted area. The document must be provided to a property owner should an inspector find any deficiencies on a property unrelated to failed mitigation equipment.

Beginning February 1, 2026 and every year thereafter, a port district must produce and make publicly available a report detailing the funds required to be used on remedial mitigation programs and significant port actions and, if the port district has provided a building inspector by contract, the funds made available to the port district in the form of loans or grants for the provision of a building inspector.

Significant Port Actions. When considering a significant port action initiated after July 1, 2025, a port district required to undertake a remedial mitigation program must, prior to approving the action:

- conduct an assessment on the likely adverse cumulative impact of the proposed action on overburdened communities and vulnerable populations;
- provide a written explanation of actions the district is taking to minimize the likely adverse impacts or, if the port is unable to minimize the adverse action, provide a clear explanation of why it has made that determination; and
- consult with overburdened communities and vulnerable populations about the proposed action.

A significant port action is defined as any action involving a capital improvement project, purchase, or construction of more than \$12 million in value.

Noise Abatement Fund. A port district is authorized to finance its noise abatement fund with the proceeds of the property tax levy revenue to be utilized for remedial mitigation programs and any grants or loans made by the port district environmental equity fund, in addition to the existing authorized financing of the fund.

Property Tax Levy Revenue. A port district subject to this act must, after July 1, 2024, utilize at least half of the dollar amount of the district's levy revenue over the prior year's levy for its remedial mitigation program. After July 1, 2025, at least one percent of a port district's annual tax levy revenue must be utilized for the program. A port district must dedicate an additional 1 percent of its annual tax levy revenue per year, for a maximum of 10 percent. The additional annual tax levy revenue must be maintained by the port district in a separate account.

Port District Environmental Equity Fund. The port district environmental equity fund is created in the state treasury. Funds may be supplemented by monies from the Climate Commitment Account and may be used to make loans or grants to port districts to undertake remedial mitigation programs or to comply with requirements related to significant port actions.

The Department of Commerce (Commerce) must:

- provide management services for the fund;
- establish procedures for fund management;
- develop and monitor the grant or loan criteria and select grant or loan recipients; and
- prepare and publish an annual report on its website detailing:
 1. the grants and loans made under the fund;
 2. the uses to which the grants and loans have been put; and
 3. the benefits that have been realized.

Grants for Qualifying Port Districts. In addition to grants provided through the port district environmental equity fund, Commerce must administer a grant program to provide financial assistance to qualifying port districts for the provision of a building inspector to conduct inspections related to the remedial mitigation program. Funds may be used to hire or contract a building inspector or inspectors, or for entering into an interlocal agreement with the county for the provision of a building inspector or inspectors.

Commerce must prepare and publish an annual report detailing grants made under the grant program. The report must include:

- the number of inspectors hired or contracted with because of the grants;
- the number of inspections conducted by the inspectors; and
- the number of remedial mitigation packages provided as part of the remedial mitigation program subsequent to an inspection.

EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS COMMITTEE (First Substitute):

- Creates the port district equity fund for purposes of making grants to port districts to supplement noise mitigation programs.
- Provides a one-time appropriation for FY 2025 to the port district equity fund:
 1. Following this one-time appropriation, revenues generated from sales and use taxes collected on capital construction projects within the district must be appropriated to the port district equity fund. The Legislature may appropriate up to \$10 million of this revenue to the port district equity fund each fiscal year.
- Provides that a qualifying port district may commit to matching, from port district funds, at least one-half of the total funding provided by the Legislature for purposes of noise mitigation.
- Removes the language that a qualifying port district may use a portion of the levy revenue for purposes of a noise mitigation program.
- Provides that a qualifying port district may apply to the port equity fund for resources to facilitate the assessment and inspection of sound mitigation equipment that is no longer working or is reported to have caused additional hazards or structural damage to the property.
 1. If a certified building inspector that has contracted with the port identifies that a property's sound mitigation equipment is no longer working as intended, the

port district must apply to the port equity fund for resources to repair or replace existing sound mitigation and address any additional hazards or structural damage to the property.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 29, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill. *The committee recommended a different version of the bill than what was heard.* PRO: This bill applies specifically to the Port of Seattle. The communities in these areas are subject to constant noise and air pollution that is specific to jet engines. These ultrafine particles have been measured to be found throughout the pattern of landing and takeoff in the ten mile radius of the airport. The particles are so small that they can pass the blood-brain barrier, they can get into a placenta. They are the reason the health measures in that community are so bad, and have higher rates of asthma, and respiratory and heart disease. There are several brain diseases that are impacted by these particles and noise, like aneurisms and seizures. Residents cannot eat produce they grow in their outdoor gardens because of the particles. A while ago, residents in the impacted area were given a "port package" that included insulation and windows to mitigate for noise. Many of these packages are now failing but the port refuses to repair the failed port packages. Current federal regulations prohibit an airport from using federal funds to repair a failed port package. A port package is no luxury. It is as important to human health and safety as is the state building code. When homes are unhealthy to live in and port packages fail, families, but particularly BIPOC and economically disadvantaged families, are barred from housing justice. This community needs the Legislature's help. This bill proposes a pattern of ongoing remediation and repair, and dedicates money from the climate commitment account and package of revenue to support these programs. San Francisco airport has several programs that allow for the repair of failed port packages that are funded primarily through by the port.

CON: As drafted, this bill runs contrary to FAA regulations, could violate constitutional prohibitions against gift of public funds, and requires the port to provide various actions without providing the legal authority to do so. The bill sets up several new programs and requirements without funding to make those programs successful, because the funding could not come from federal resources and must come from state and local funds. The airport is funded exclusively through federal grants and the revenue derived at the facility. The bill devotes a portion of the King County port district levy towards this program and this is contrary to years of precedent. We would support directing resources towards the inspection of failed port packages.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Traci Buxton, City of Des Moines WA; JC Harris, SeatacNoise.Info; Denise Utley; Anne Kroeker, No Group; Stuart Jenner; Trung Lee, SeaTac Homeowner; Senayet Negusse, SeaTac City Councilmember; Kyle Moore, City of SeaTac, Government Relations; Brian Davis; Randy Boucher; Heather Morton; Barbara McMichael; Debi Wagner; Steve Edmiston, Quiet Skies Puget Sound; Sandra Mock, Realtor and home owner in the flight path; Karen Veloria; Maria Batayola, Beacon Hill Council (Seattle Neighborhood); Kent Palosaari; Sarah Moore; Megan Slade, Beacon Hill Council.

CON: John Worthington; John Flanagan, Port of Seattle; Eric ffitch, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying: No one.