

SENATE BILL REPORT

SB 5955

As Reported by Senate Committee On:
Local Government, Land Use & Tribal Affairs, January 30, 2024
Ways & Means, February 5, 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. [**Revised for 2nd Substitute:**]

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].
Ways & Means: 2/03/24, 2/05/24 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Establishes the port district equity fund for purposes of making grants to port districts authorized to undertake noise abatement programs.
- Provides that revenue generated from the sales and use taxes collected on capital construction projects within the port district must be transferred from the general fund to the port district equity fund, up to \$10 million per year.
- Authorizes a qualifying port district to match, from port funds, at least one half of the total funding provided by the Legislature for purposes of the noise abatement program.
- Requires the Department of Commerce to administer grants from the port district equity fund to provide assistance to qualifying port districts for expenses related to noise mitigation.

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.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

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)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5955 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Robinson, Chair; Nguyen, Vice Chair, Operating; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Pedersen, Randall, Saldaña, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital.

Minority Report: That it be referred without recommendation.

Signed by Senators Mullet, Vice Chair, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Boehnke, Braun, Muzzall, Torres and Wagoner.

Staff: Trevor Press (786-7446)

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:

- no more than ten miles beyond the paved north end of any runway;
- no more than 13 miles beyond the south end paved end of any runway; or
- no more than two miles from the centerline of any runway extending six 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: The bill as referred to committee not considered.

Summary of Bill (Second Substitute): The port district equity fund is created in the state treasury for the purpose of providing grants to port districts to supplement noise mitigation programming. The Department of Commerce, in consultation with a qualifying port district must maintain a list of retail sales and use tax collected on qualifying construction projects and remitted to the state each prior calendar year. The State Treasurer must transfer up to \$10 million of the revenue generated from the retail sales tax and use imposed on capital construction projects at a commercial airport operating a noise mitigation program to the port district equity fund as determined by the Department of Commerce in consultation with a qualifying port district. A 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.

The Department of Commerce (Commerce) must administer the grant program to provide assistance to port districts for expenses related to noise mitigation. A qualifying port district, defined as a port district authorized to undertake noise abatement programs, may apply to the port district 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.

A qualifying port district may contract with building inspectors or other professionals with experience in sound testing, or window and door installs, or may enter into an interlocal agreement with the county in which it is located for the provision of building inspectors or professionals with experience in sound testing, or window and door installs to determine whether package failure resulted in additional hazards or structural damage to the property. Any expense incurred by the county related to contracting of a building inspector or professional may be reimbursed by the port district. The port district may use grant funds from the port district equity fund to reimburse the county for these expenses. If a building inspector or other professional identifies that a property's noise mitigation equipment is no longer working as intended, the port district must apply to the grant program for resources to repair or replace existing noise mitigation equipment or address related hazards or damages.

Commerce must prepare and publish an annual report on its website detailing grants made

under the port district equity fund. The report must include:

- the number of qualified building inspectors or other professionals contracted;
- the number of inspections conducted;
- the number of properties provided with new or improved noise mitigation equipment subsequent to an inspection;
- the number of properties receiving funds to address hazards or damages proven by an inspection to be associated with the installation of noise mitigation equipment; and
- the number of inspected properties where no repairs occurred and the reasons why.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Makes several changes to the intent section.
- Authorizes a port district providing additional benefits to properties that already received sound mitigation equipment that is determined through inspection to be in need of repair or replacement to contract directly with building inspectors or other professionals with experience in sound testing, or window and door installations.
- Clarifies that a port district may contract with building inspectors or other professional with experience in sound testing or window and door installs, rather than a state certified building inspector, to determine whether package failure resulted in additional hazards or structural damage to the property.
- Removes the appropriation from the bill.
- Makes other technical changes.

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 district 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.

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 (Local Government, Land Use & Tribal Affairs): *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 (Local Government, Land Use & Tribal Affairs): 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; Saundra 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 (Local Government, Land Use & Tribal Affairs): No one.

Staff Summary of Public Testimony on Proposed Second Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is a good start and every city under the flight pass is at risk. The residents that are more impacted by flights are the most vulnerable and cannot afford port packages. Also, federal money is only available for older buildings and these packages are needed for newer buildings as well. We need to show that we will protect our citizens by voting yes on this bill. The port commission is planning on an order for this work. This bill would help resolve issues that communities around the port have dealt with for years and cannot afford to mitigate themselves. The number of flights coming out of the airport are likely to increase in the near future. There was inconsistent quality of installation of the products that were supplied for initial port packages and homeowners have suffered ever since. The port paid \$44,000 for packages on my home without a warranty and windows began to fail soon after. Please support this bill and correct the damage caused by the original program. Most people who are against this bill are not from the area and do not want their tax dollars used for this.

Persons Testifying (Ways & Means): PRO: Senator Karen Keiser, Prime Sponsor; JC Harris, SeaTacNoise.Info; Traci Buxton, Mayor, City of Des Moines WA; Brian Davis, Burien Airport Committee; SHARYN PARKER; Jacob Delbridge; Kyle Moore, City of SeaTac, Government Relations; Denise Utley; Sheila Brush; Hamdi Mohamed, Port of Seattle; John Flanagan, Port of Seattle.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.