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Testimony on Assembly Bill 671

Assembly Urban and Local Affairs Committee

Tuesday, February 25, 2014

Thank you Chairman Brooks and committee members for the opportunity to provide testimony on Assembly Bill 671 this morning.

A lot of people in this building always start out by saying, "This bill is a simple bill." Well, that's actually true this time.

AB 671 addresses a small issue in state statutes regarding airport approach ordinances. For those that don't know, areas around airports have some restrictions such as building areas and building height, for safety reasons.

Under the statute, there were multiple different scenarios under which an airport approach ordinance could be adopted. In some counties, it would be the county park manager. In some counties, it's the county park commission, and in some counties it's the county board as a whole. In some villages and cities, it's the planning commission, and in some villages and cities it's the village board or city council.

AB 671 makes it simple. It says that an airport approach ordinances will be adopted by the governing body as a whole, whether that be the county board, the village board, or the city council.

Simple and easy to understand. No complicated scenarios dealing with county executives, park managers, park commissions, or planning commissions. Just the governing body as a whole.

I support this bill for a couple reasons. First, Winnebago County brought it to our attention and is supportive of it. As an issue that affects them directly, I'm always willing to try to make their job easier. Second, it's about simplicity. Why have a complicated scenario when it can be simple? Third, a full governing body is directly accountable to the people. If there are issues, those elected officials will have to answer the questions as they are the ones that created and adopted it.

I want to thank Winnebago County again for bringing this to our attention, and thank you again to the committee members for listening to our testimony.

I'd be happy to answer any questions you may have.

(Over)

Old Statute:

114.136(2)(a)

Except as provided by sub. (1) (b) or (c), **the county park commission in the case of any county except any county with a county executive or county administrator in which case the county park manager, the city or village plan commission in the case of a city or village, or if there is no such commission or manager, a committee of the governing body or bodies of the county, city, village or town which owns the airport or spaceport site shall formulate a tentative ordinance** and hold a public hearing or hearings thereon in some public place within the county, city, village or town. Notice of the hearings shall be given by publication of a class 3 notice, under ch. 985, in the area affected by the proposed ordinance.

New Statute:

114.136(2)(a)

Except as provided by sub. (1) (b) or (c), **a committee of the governing body of the county, city, village or town that owns the airport or spaceport site shall formulate a tentative ordinance** under sub. (1) and hold a public hearing or hearings thereon in some public place within the county, city, village or town. Notice of the hearings shall be given by publication of a class 3 notice, under ch. 985, in the area affected by the proposed ordinance.



State Senator
Rick Gudex

District 18

February 25, 2014

To: The Assembly Committee on Urban and Local Affairs
From: Sen. Rick Gudex
Re: Assembly Bill 671

Mr. Chairman, members of the committee, thank you for hearing this bill today and for allowing me to speak on its behalf.

Wisconsin has over 130 airports. Airports are good. We like airports. Understandably, where there is an airport, there are also unique safety concerns. For example, structures around the airport have to be regulated differently, in order to provide safe corridors for airplanes to take off and land.

State law gives local governments the responsibility to do that. In cities and villages, the planning commissions have this authority. For counties, it's a little more complex.

- In a county with an executive or administrator, the county park manager creates and adopts the ordinances without county board approval or consent.
- In a county without an executive or administrator, the County Park Commission creates and adopts the ordinances without full county board approval.
- In a county that doesn't have an executive, administrator, or County Park Commission, the governing body as a whole.

There doesn't seem to be any good reason for park managers and park commissions to make these decisions, particularly without at least input from the county board. Park managers and commissions have nothing to do with airports, and little if anything to do with zoning or building regulations. So this makes no sense, and nobody can seem to explain why the law says this.

This bill simply gives the authority to a committee of the governing body, in this case the county board. The board could choose to enact the ordinances themselves, appoint a special committee, assign it to an existing committee, or find some other method. But the ultimate responsibility will lie with the county board, where it should.

This is a simple and commonsense bill that has already passed unanimously through its Senate committee. Please give it your support.

JERRY L. BOUGIE
Director
BRIAN P. O'ROURKE
Associate Planner

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Winnebago County

Planning and Zoning Department

The Wave of the Future

February 24, 2014

TO: Senator Richard Gudex, Wisconsin Senate District #18
Wisconsin Senate Committee on Economic Development and Local
Government

FROM: Jerry L. Bougie, Winnebago County Director of Planning and Zoning

A handwritten signature in black ink, appearing to be 'JB' with a long horizontal stroke extending to the right.

RE: Submittal of Testimony on Senate Bill 516 (relating to local airports and the
process for enacting aerial approach ordinances)

Thank you for allowing me to convey my comments relative to SB 516. My
comments are on behalf of Winnebago County.

- Airports have significant impacts on land uses surrounding and within general proximity to them, and in addition, the reverse is true with land use activity in general proximity to airports having potential significant impacts on an airport's operations and activities. This is why owners of airports (in our case, the County) created an ordinance many years ago - in accordance with s. 114.136 of the State Statutes - to better protect the airport (Wittman Regional Airport) from potential conflicting land use activity.
- However in our review of this particular portion of the statutes we learned that s. 114.136(2) (a) requires the county parks manager to serve as the sole entity within a county that owns an airport and has a County Executive (as in Winnebago County) or Administrator form of County government, to be empowered to formulate and hold a hearing on such an ordinance,

including any subsequent amendments to such an ordinance. This requirement eliminates any oversight or approval from a committee of the governing body, which significantly compromises the representative interests of citizens and taxpayers alike.

- The historical experience of any zoning ordinance under state statute is to include a committee of the governing body to be entrusted with managing proper land use activity and balancing the rights of property owners with the rights of the community in general. This (a committee of the governing body) should also be extended to a zoning ordinance that is prepared for the express purpose of protecting the aerial approach zones for a county-owned airport under s. 114.136, including protecting the extensive monetary investment that a county and its taxpayers put into the airport for infrastructure upkeep.
- S. 114.136 already includes provisions for proper committee (or commission) representation for the creation and amendment to an airport protection ordinance for airports that are either jointly owned by two or more governmental entities (joint commission is formed), or owned by a city or village (plan commission or committee of the governing body). It would stand to reason that this form of representation should also be extended to a county owned airport that is in a county that employs a county parks manager and has a County Executive or Administrator form of government.
- The Winnebago County Board of Supervisors has adopted a resolution (copy attached) supporting the amendment (as proposed in SB 516).

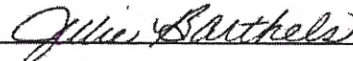
Thank you.

END.

CERTIFICATION OF RESOLUTION

I, Julie Barthels, Winnebago County Clerk's Office, certify that the attached is a true and correct copy of Resolution No. 249-82013 "Support an Amendment to § 114.136(2)(a), Wis Stats, to Authorize a Committee of the Governing Body Owning an Airport or Spaceport Site to Formulate an Ordinance to Protect the Aerial Approaches to the Airport or Spaceport and to Conduct a Public hearing or Hearings on Such an Ordinance Before the Committee" which was passed by the Winnebago County Board of Supervisors on August 20, 2013.

Signed and dated this 25th day of September, 2013.



Julie Barthels
Winnebago County Clerk's Office

1 249-82013

2 RESOLUTION: Support an Amendment to § 114.136(2)(a), Wis Stats, to Authorize a
3 Committee of the Governing Body Owning an Airport or Spaceport Site
4 to Formulate an Ordinance to Protect the Aerial Approaches to he Airport
5 or Spaceport and to Conduct a Public Hearing or Hearings on Such an
6 Ordinance Before the Committee
7

8 TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

9 WHEREAS, Winnebago County has adopted an ordinance, specifically, Chapter 24 of the General Code of
10 Winnebago County, pursuant to § 114.136, Wis Stats, which allows owners of airports or spaceports to protect, by
11 ordinance, the land use activity in the vicinity of aerial approaches of such airport or spaceport; and

12 WHEREAS, current provisions in § 114.136(2)(a), Wis Stats, provides that if the airport or spaceport is
13 owned by a county, the county park manager is solely authorized to formulate such an ordinance; including any
14 subsequent amendments to such an ordinance, and holding a public hearing or hearings relative to such an
15 ordinance without the oversight or approval of any committee of jurisdiction from the governing body; and

16 WHEREAS, without committee oversight or approval, in the process of formulating such an ordinance and
17 subsequently conducting a public hearing thereon, the representative interests of citizens and taxpayers of the
18 governing body owning the airport or spaceport is significantly compromised; and

19 WHEREAS, both the Winnebago County Legislative Committee and the Planning and Zoning Committee
20 feel it is in the best interests of Winnebago County and other governing bodies owning an airport or spaceport site to
21 amend § 114.136(2)(a), Wis Stats, to require oversight and approval from a committee of the governing body in
22 formulating an ordinance and holding a public hearing or hearings thereon before such a committee and removing
23 such authority from the county park manager.

24 NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby
25 seeks legislation to amend § 114.136(2)(a), Wis Stats, to read as follows:

26 114.136 Airport and Spaceport Approach Protection

27 (2) Formulation of Ordinance, Public Hearing

28 (a) Except as provided by sub. (1) (b) or (c), ~~the county park commission in the case of any county~~
29 ~~except any county with a county executive or county administrator in which case the county~~
30 ~~park manager, the city or village plan commission in the case of a city or village, or if there is~~
31 ~~no such commission or manager~~, a committee of the governing body or bodies of the county, city,
32 village, or town, which owns the airport or spaceport site, shall formulate a tentative ordinance and
33 hold a public hearing or hearings thereon in some public place within the county, city, village, or
34 town. Notice of the hearings shall be given by publication of a class 3 notice, under ch. 985, in the
35 area affected by the proposed ordinance.

36 BE IT FURTHER RESOLVED by the Winnebago County Board of Supervisors that it hereby directs the
37 Winnebago County Clerk to forward a copy of this Resolution and proposed amendment to § 114.136(2)(a), Wis
38 Stats, a copy of which is attached hereto, to all State Legislators representing Winnebago County, the Wisconsin
39 Counties Association, and to other counties owning airports.
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Respectfully submitted by:
LEGISLATIVE COMMITTEE

Committee Vote: **12-0**

Respectfully submitted by:
PLANNING AND ZONING COMMITTEE

Committee Vote: **3-0**

Vote Required for Passage: **Majority of Those Present**

Approved by the Winnebago County Executive this 3rd day of September, 2013.

Mark L. Harris
Mark L Harris
Winnebago County Executive

that governing body and, if there be 2, the members so selected shall elect a third member. Such joint commission shall elect a chairperson and a secretary, and shall have authority to formulate a tentative ordinance and hold public hearings as provided in sub. (2). At least 15 days written notice of the meeting to select a joint commission shall be given to each governing body by filing a copy of such written notice with the clerk thereof. Such notice may be given on the initiative of one such governing body or jointly by more than one. The governing bodies that attend such meeting may proceed jointly. If one attends, or if only one favors an ordinance, it may proceed alone without appointing a commission, but no ordinance applicable to a jointly owned airport or spaceport shall be adopted by a governing body acting alone unless it has given notice of meeting to select a joint commission as provided by this subsection, and such ordinance shall be as effective as if adopted by the joint bodies.

- (c) As an alternative to the procedure for the appointment of members of the joint commission provided in par. (b), the governing bodies of the units of government which jointly own an airport or spaceport site may by separate resolution of each governing body designate an existing subunit of any one of the governing bodies to act as the joint commission. In such case, the designated subunit shall elect a chairperson and secretary, formulate a tentative ordinance and hold public hearings as provided in sub. (2). No tentative ordinance formulated under this paragraph is effective unless it is adopted by all of the governing bodies of the units of government which jointly own the airport or spaceport site.
- (d) An ordinance adopted under par. (b) or (c) may be amended in the same manner as is provided for the adoption of the original ordinance in par. (b) or (c).

(2) FORMULATION OF ORDINANCE, PUBLIC HEARING.

(a) Except as provided by sub. (1) (b) or (c), ~~the county park commission in the case of any county except any county with a county executive or county administrator in which case the county park manager, the city or village plan commission in the case of a city or village, or if there is no such commission or manager,~~ a committee of the governing body or bodies of the county, city, village or town which owns the airport or spaceport site shall formulate a tentative ordinance and hold a public hearing or hearings thereon in some public place within the county, city, village or town. Notice of the hearings shall be given by publication of a class 3 notice, under ch. 985, in the area affected by the proposed ordinance.

Text proposed to be deleted.

Amend this section as noted.

- (b)
 - 1. The regulations, restrictions and determinations shall include, among other things, provisions for the limitation of the height of buildings, structures and objects of natural growth located not more than 3 miles from the boundaries of the airport site or located not more than 5 miles from the boundaries of the spaceport site. Such regulations, restrictions and determinations shall specify the maximum permissible height of buildings, structures and objects of natural growth and may