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HOSPITAL HELIPORTS AND HELISTOPS

House Bill 5888 as enrolled
Public Act 268 of 1998
Second Analysis (8-12-98)

Sponsor: Rep. David Gubow
House Committee: Transportation
Senate Committee: None

THE APPARENT PROBLEM:

According to the Michigan Association of Air Medical Services, in 1996 Michigan's helicopter air medical transport services safely completed over 3,000 missions, and approximately 4,800 of their landings and take-offs were logged at the heliports and helistops of hospitals. In all, there are 160 heliports located at hospitals throughout the state. However, the association notes that in 1996, the Aeronautics Code was revised to strengthen the standards for commercial heliports. In the process, hospital heliport standards were made as stringent as, and in some instances more stringent than, those for commercial heliports. In fact, the code made the standards for hospital heliports more stringent than is required by FAA regulations.

The Michigan Health and Hospital Association reports that the changes to the law failed to take into account differences between general use heliports and hospital heliports, as well as differences between helicopter operations at different hospitals. Unlike general use heliports, hospital helicopter operations are limited almost exclusively to use by air ambulances. In addition, among those facilities with helicopter capabilities, there are differences between facilities where helicopter operations are a routine part of the operation, contrasted with those where helicopters visit on a less frequent basis.

The end result of these changes is that the vast majority of hospital heliports and helistops (the name given to less elaborate, more modestly equipped air ambulance operations) are currently out of compliance with state law. Many hospitals cannot meet these new standards without undue financial hardship. Others cannot meet the standards under any circumstances. The Association of Air Medical Services notes that the

implications for patients are potentially disastrous if heliports and helistops must be shut down or moved to a location distant from the hospital.

To address this problem, the Michigan legislature passed House Bill 5584 earlier this legislative session, a bill that was signed by the governor and enacted into law as Public Act 81 of 1998. However, Public Act 81, which would regulate hospital heliports and helistops, did not go into effect since House Bill 5584 was tie-barred to a bill that the governor vetoed, a bill substantially similar to House Bill 5888.

House Bill 5888 and its earlier and substantially similar although vetoed version, House Bill 5583, define hospital heliports to distinguish them from commercial heliports, and also address discriminatory practices in aeronautical operations. The discrimination prohibitions contained in the bills have been proposed because a couple years ago, a Michigan township adopted an ordinance that limits access to a private use airport. To prevent the airport owner from denying access to pilots in a discriminatory manner, and to overturn the local restriction, a court challenge was brought in which both the NAACP and the Tuskegee Airmen filed amicus briefs.

For these reasons, some argue that legislation is needed to form a set of hospital heliport standards that are safe, consistent with FAA regulations, and appropriate to meet the needs of hospitals and their patients, as proposed in Public Act 81 of 1998 but not yet in effect. What's more, they argue that legislation also is needed to distinguish hospital from commercial heliports, and generally, to prohibit unlawful discrimination in aeronautics operations.

House Bill 5888 (8-12-98)

THE CONTENT OF THE BILL:

House Bill 5888 would amend the Aeronautics Code of the State of Michigan to prohibit discrimination regarding access to landing areas, and to define a hospital heliport.

Specifically, House Bill 5888 would amend the Aeronautics Code to prohibit the operation of aircraft from being regulated on the basis of an individual's race, religion, creed, color, national origin, gender, or ancestry, notwithstanding any existing regulation to the contrary. The bill also specifies that, notwithstanding any existing limitation or regulation to the contrary, the owner and any other person authorized by the owner would have the right to use a private landing area.

The bill would define "hospital helistop" as a minimally developed facility for the boarding and discharging of helicopter crew and passengers and the loading and unloading of helicopter cargo solely for an air ambulance or other hospital-related functions. The bill would define "hospital" as the term is defined in the Public Health Code (i.e., a facility offering inpatient, overnight care, and services for observation, diagnosis, and active treatment of an individual with a medical, surgical, obstetric, chronic, or rehabilitative condition requiring the daily direction or supervision of a physician, excluding a mental health hospital licensed or operated by the Department of Community Health or a hospital operated by the Department of Corrections).

The bill also would repeal Enacting Section 1 of Public Act 81 of 1998. That enacting section tie-barred Public Act 81 to House Bill 5583, which the governor vetoed, thus preventing Public Act 81 from going into effect. Thus, the bill would allow Public Act 81 to take effect.

MCL 259.20c and 259.24a

FISCAL IMPLICATIONS:

The House Fiscal Agency noted, with regard to earlier, similar legislation, that the legislation would have no overall fiscal impact since it adds language that clarifies current practices. (2-27-98)

The Senate Fiscal Agency notes that House Bill 5888 would have no fiscal impact on state or local government. (6-26-98)

BACKGROUND INFORMATION:

The Aeronautics Code of the State of Michigan. The Aeronautics Code provides for the licensing and regulation of aircraft, airports, pilots, aviation schools, and numerous other aspects of aeronautics within Michigan, and gives the Michigan Aeronautics Commission general supervision over aeronautics in the state. The code was enacted in 1945, and has been updated occasionally over the last 53 years to reflect current industry standards and to bring it into compliance with federal law. The last two major updates of the code occurred in 1976 and 1996. During the interim periods (between recodifications), the commission generally has altered administrative rules to reflect current practices and terminology.

Aeronautical facilities. During the 1996 update of the code (Public Act 370 of 1996), a number of then current rules were codified, including those that defined different categories of aeronautical facilities. The new law established six different types of aeronautical facilities: the first three are classes of airports; the fourth the seaplane base; the fifth the heliport; and a sixth (and at the time a new category), the hospital heliport, whose minimum specifications were similar to the general use heliport.

Similar legislation. A bill similar to House Bill 5888 was introduced earlier in this legislative session as House Bill 5583, and it passed both houses but was vetoed by the governor. A companion bill, House Bill 5584, (identical to House Bill 5889) was signed and enacted as Public Act 81 of 1998. However, the Public Act 81 could not go into effect since the bills were tie-barred to each other.

House Bill 5888 is different from the vetoed bill in one respect: the words "familial relationship" were deleted upon reintroduction, so that House Bill 5888 would prohibit discrimination based on race, religion, creed, color, national origin, gender, or ancestry, but not familial relationship. A House floor amendment subsequently also removed the words "lineage, descent, or heredity" from the list of protected classes. These changes were offered to address the governor's concerns, listed in his veto letter. Specifically, Enrolled House Bill 5583 was vetoed by the governor in a message dated May 6, 1998. In his veto message the governor wrote: "The intent of Enrolled House Bill 5583 is to preempt local ordinances that place restrictions on the use of private airstrips or 'landing areas'. However, in its attempt to protect the rights of

some owners of private landing areas, the bill places an unwelcome restriction on the rights of all such owners. I refer specifically to the bill's requirement that access to private landing areas 'shall not be denied, limited, or regulated . . . on the basis of . . . familial relationship'. This language would appear to prevent the owner of a private landing area from restricting its use to members of his or her own family. This limitation on private property rights is unacceptable. I also question the wisdom of attacking local ordinances concerning the use of private airstrips on the basis of state civil rights. I do not consider this a proper basis for extending our cherished civil rights protections, which should be rooted in efforts to remedy or prevent actual instances of discrimination. For these reasons, I am returning Enrolled House Bill 5583 without signature."

ARGUMENTS:

For:

Passing this bill would resolve an administrative quandary. Amendments to House Bill 5888 have been adopted to allow Public Act 81 of 1998 to go into effect. That act, passed by the legislature earlier this session, is in legal limbo because an enrolled bill to which it was tie-barred was vetoed by the governor. Public Act 81 is needed because it would provide for the regulation of hospital heliports and helistops.

For:

This legislation is necessary to prevent discrimination. House Bill 5888 states that notwithstanding any existing limitation or regulation to the contrary, the owner and any person authorized by the owner shall have the right to use a private landing area. However, the bill also would prohibit any regulations that govern the operation of an aircraft from being based on an individual's race, religion, creed, color, national origin, gender, or ancestry.

For:

This bill would create a new category of aeronautic facility, the helistop, a landing and take-off zone for an air ambulance that is less elaborately equipped than a heliport, yet medically necessary. In 1996, helicopter medical transport services safely completed over 3,000 missions in Michigan. Nonetheless, most of the hospital heliports and helistops to and from which the transports regularly fly are not in compliance with the state Aeronautics Code. When the code was updated in 1996, a new category of aeronautical facility was added: the hospital heliport.

The code treated a hospital heliport as if it were the same as a busy, commercial full-service heliport, failing to recognize that the sole purpose of the vast majority of hospital heliports is to provide air ambulance service. This legislation makes clear the distinction between a general service heliport and a hospital heliport. In House Bill 5888, the hospital heliport is defined as a minimally developed facility for the boarding and discharging of crew and passengers, and the loading and unloading of cargo solely for an air ambulance or other hospital-related functions.

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.