



House Office Building, 9 South  
Lansing, Michigan 48909  
Phone: 517/373-6466

## ZONING AND AIRPORT LAND USE PLANS

### House Bill 5036 (Substitute H-1) House Bill 5037 (Substitute H-1) First Analysis (10-4-00)

**Sponsor: Rep. Mike Green**  
**Committee: Local Government and Urban  
Policy**

#### ***THE APPARENT PROBLEM:***

The Bureau of Aeronautics in the Department of Transportation points out that although the governing boards of airports must report expansion plans to state transportation officials, they have no obligation under the land use planning laws to notify local units of government about their plans to expand their operations. Airports are not, in the terminology of local planning officials, subject to the 'site-plan review' that is customarily undertaken by the city, township, or county planning commissions in order to coordinate development activities.

Near a residential area, a noisy airport can be an incompatible land use. Generally the most unacceptable of its characteristics must be buffered or contained, if not avoided or entirely eliminated. Seldom are residential neighbors able to ignore the essentially incompatible land use, since the presence of an airport usually diminishes the value of adjacent property. When citizens are caught unaware by an airport expansion, they are understandably upset, and their level of dissatisfaction increases when they learn they have no recourse under the land use planning laws.

To improve communication between those who govern airports, those who live near them, and those land use planners in local government whose work requires that they reconcile similar categories of land uses while avoiding those that are most incompatible, legislation has been proposed that would require airports to notify local government officials of their land use plans.

#### ***THE CONTENT OF THE BILLS:***

House Bills 5036 and 5037 would amend the Township Zoning Act and the County Zoning Act, respectively, and in substantially similar ways. The bills are tied-barred to Senate Bills 764 and 765 so that neither could take effect unless those Senate bills were enacted

into law. (Senate Bill 764 would amend the Aeronautics Code to require the manager of a licensed airport to promptly file with the appropriate zoning board a copy of the approved airport layout and approach plans. Senate Bill 765 would amend the City and Village Zoning Act in essentially the same ways that House Bills 5036 and 5037 would amend the zoning acts of townships and counties, respectively. See *BACKGROUND INFORMATION* below.) A summary of House Bills 5036 and 5037 follows.

House Bill 5036 would amend the Township Zoning Act (MCL 125.273 et al.) to require that a township incorporate any airport layout plan or airport approach plan filed with the township zoning board into the plan required under the act, when that plan is revised. The bill also would require that the zoning ordinance township officials use to adopt the plan be made with reasonable consideration of, among other things, the environs of any airport within a district (if the ordinance were adopted after the effective date of the bill), and comments received at or before a public hearing from the airport manager of any airport.

Under the bill, if a zoning ordinance were already in effect, that ordinance would not be required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. However, any zoning ordinance amendment adopted, or variance granted, after the effective date of the bill could not increase any inconsistency that may exist between the zoning ordinance (or structures or uses) and any airport zoning regulations, layout plan or approach plan. In the alternative, if a zoning ordinance were adopted after the effective date of the bill, that zoning ordinance would be required to be consistent with any airport zoning regulations, or airport plan. The bill specifies that neither of these provisions would limit the right to petition for submission of a zoning ordinance amendment to the electors.

House Bill 5036 would require that not less than 20 days' notice of the time and place of the hearing, and not less than 10 days' notice of any additional public hearing, be given by mail to the airport manager of each airport, among others. The bill also would require that promptly following adoption of a zoning ordinance (or subsequent amendment) by the township board, a copy of the notice be mailed to the airport manager.

House Bill 5037 would amend the County Zoning Act (MCL 125.203 et al.) to require that the county incorporate any airport layout plan or airport approach plan filed with the county zoning commission into the plan required under the act when that plan is revised. The bill also would require that the zoning ordinance county officials use to adopt the plan be made with reasonable consideration of, among other things, the environs of any airport within a district (if the ordinance was adopted after the effective date of the bill), and comments received at or before a public hearing from the airport manager of any airport.

Under the bill, if a zoning ordinance were already in effect, that ordinance would not be required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. However, any zoning ordinance amendment adopted, or variance granted, after the effective date of the bill could not increase any inconsistency that may exist between the zoning ordinance (or structures or uses) and any airport zoning regulations, layout plan or approach plan. In the alternative, if a zoning ordinance were adopted after the effective date of this legislation, that zoning ordinance would be required to be consistent with any airport zoning regulations, or airport plan. The bill specifies that neither of these provisions would limit the right to petition for submission of a zoning ordinance amendment to the electors.

Currently the law requires that not less than 20 days' notice of the time and place of the hearing be given by mail to each of the following: a) each electric, gas, pipeline, and telephone public utility company that registers its name and mailing address with the county zoning commission for the purpose of receiving the notice of public hearing; and b) to each railroad within the district or zone affected. House Bill 5037 also would require that not less than 20 days' notice of the time and place of the hearing be given by mail to the airport manager of each airport.

The bill specifies that not more than 15 days after adoption of a zoning ordinance (or subsequent amendments) by the county board of commissioners and approval by the Department of Consumer and

Industry Services, one notice of adoption would have to be published in a newspaper of general circulation in the county. Further, promptly following adoption of a zoning ordinance or subsequent amendment by the county board of commissioners and approval by the Department of Consumer and Industry Services, a copy of the notice of adoption would also have to be mailed to the airport manager.

### ***BACKGROUND INFORMATION:***

These bills are tie-barred to Senate Bills 764 and 765. Senate Bill 764 would amend Public Act 327 of 1945, the Aeronautics Code of the State of Michigan, to require the airport manager of an airport licensed under the act to promptly file with the appropriate zoning board, zoning commission, or other commission appointed to recommend zoning regulations, a copy of their approved airport layout plan, and their approved airport approach plan. Senate Bill 765 would amend Public Act 207 of 1921, the City and Village Zoning Act, in substantially similar ways as House Bill 5036 amends the Township Zoning Act, and House Bill 5037 would amend the County Zoning Act. Specifically, Senate Bill 765 would require that local officials in cities and villages incorporate an approved airport layout plan, or an airport approach plan, into their land use plans.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency notes that the bills have no apparent fiscal impacts. (10-3-00)

### ***ARGUMENTS:***

#### ***For:***

These bills do not change any existing authority in local planning. At present, airports have no obligation to notify local planning agencies of changes to their airport layout plans. Upon adoption of these bills, airport managers would be required to notify local planning agencies of the future plans of the airport. The bills are designed to improve communication between airport and community planning agencies. The bills do not authorize or allow airports to expand unchallenged, or without due process. Adoption of the bills will help protect citizens with airports in their communities from poor planning practices. Adoption of this legislation will help guard the quality of life of the citizenry living near airports as well as the nearly \$130 million annual investment in airports by public agencies.

***For:***

Local land use planning is undertaken by planners in local government in order to provide economic development opportunities in a region. Chief among the concerns of planners is that compatible developments be approved so that the uses on the land work well together. For example, a noisy airport adjacent to a residential area is an example of an incompatible use. Generally the most unacceptable characteristics of an incompatible use must be buffered or contained, if not avoided or entirely eliminated. For example, in the situation of an airport and neighborhood, trees might be planted to buffer noise, the edge of the runway might be hidden behind an earthen berm, or a ring-road might be designed to encircle the development and allow for additional set-back. Despite efforts to buffer or contain essentially incompatible uses, residential neighbors are seldom able to ignore them completely, since their presence usually diminishes the value of adjacent property. When citizens are caught unaware by an airport expansion, they are understandably upset, and their level of dissatisfaction increases when they learn they have no recourse under the land use planning laws. This legislation will improve communication between officials who govern counties, townships and cities, and those who govern airports. Under this legislation, their efforts to plan for development of the land would be undertaken together.

***POSITIONS:***

The Department of Transportation supports the bills.  
(10-4-00)

The Michigan Township Association has offered written testimony in support of the bill. (10-2-00)

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.