

Regular Session, 2010

SENATE BILL NO. 651

BY SENATOR HEBERT

AIRCRAFT/AVIATION. Provides relative to the adoption of airport zoning regulations ensuring compatible land use and aviation safety. (8/15/10)

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AN ACT

To amend and reenact R.S. 2:381, 385(A),and 802(A)(1), relative to aviation safety; to provide relative to airport zoning regulations; to provide relative to the adoption by certain political subdivisions of airport zoning regulations which comply with certain United States Department of Transportation, Federal Aviation Administration regulations; to provide relative to funding from the airport construction or development priority program; to provide terms and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 2:381, 385(A), and 802(A)(1) are hereby amended and reenacted to read as follows:

§381. Authority of municipalities and parishes

For promoting safety or the general welfare of the community the governing body of all incorporated cities, towns and villages and of the parishes may promulgate, administer, and enforce airport zoning regulations limiting the height of structures and objects of natural growth and otherwise regulate the use of property in the vicinity of airports and landing fields. **Any regulations adopted shall comply**

1 with any United States Department of Transportation, Federal Aviation  
 2 Administration, advisory circular, order, regulation, safety guideline,  
 3 recommendation, or other official document in order to ensure aviation safety  
 4 and compatible land use.

5 \* \* \*

6 §385. Permits; variances; obstruction marking and lighting

7 A. Permits. ~~Where advisable to facilitate the enforcement of zoning~~  
 8 ~~regulations adopted pursuant to this Chapter,~~ **If airport zoning regulations are**  
 9 **adopted a** system ~~may~~ **shall** be established by any ~~parish or other~~ political  
 10 subdivision for the granting of permits to establish or construct new structures and  
 11 other uses and to replace existing structures and other uses or make substantial  
 12 changes therein or substantial repairs thereof. In any event, before any non-  
 13 conforming structure or tree may be replaced, substantially altered or repaired,  
 14 rebuilt, allowed to grow higher, or replanted, a permit shall be secured from the  
 15 administrative agency authorized to administer and enforce the regulations,  
 16 authorizing such replacement, change, or repair. No such permit shall be granted that  
 17 would allow the structure or tree in question to be made higher or become a greater  
 18 hazard to air navigation than it was when the applicable regulation was adopted; and  
 19 whenever the administrative agency determines that a non-conforming structure or  
 20 tree has been abandoned or more than eighty percent torn down, destroyed,  
 21 deteriorated, or decayed: (1) no permit shall be granted that would allow ~~said~~ **the**  
 22 structure or tree to exceed the applicable height limit or otherwise deviate from the  
 23 zoning regulations; and (2) whether application is made for a permit under this  
 24 paragraph or not, the ~~said~~ agency may by appropriate action compel the owner of the  
 25 non-conforming structure or tree, at his own expense, to lower, remove, reconstruct,  
 26 or equip such object as may be necessary to conform to the regulations or, if the  
 27 owner of the non-conforming structure or tree shall neglect or refuse to comply with  
 28 such order for ten days after notice thereof, the ~~said~~ agency may proceed to have the  
 29 object so lowered, removed, reconstructed, or equipped and assess the cost and

1 expense thereof upon the object or the land whereon it is or was located. Unless such  
 2 an assessment is paid within ninety days from the service of notice thereof on the  
 3 agent or owner of such object or land, the sum shall bear interest at the rate of ten  
 4 percent per annum until paid, and shall be collected in the same manner as are  
 5 general taxes. Except as indicated, all applications for permits for replacement,  
 6 change or repair of non-conforming uses shall be granted.

7 \* \* \*

8 §802. Methodology for airport project evaluation

9 A.(1) Applications for funding of any airport construction or development  
 10 project may be submitted by any airport authority, except as provided in R.S. 2:806,

11 **However, an airport authority located in a political subdivision which has**  
 12 **adopted airport zoning regulations shall not be eligible to apply for funding**  
 13 **from the airport construction or development priority program if the political**  
 14 **subdivision's regulations are not in compliance with United States Department**  
 15 **of Transportation, Federal Aviation Administration, advisory circulars, orders,**  
 16 **regulations, safety guidelines, recommendations, or other official documents for**  
 17 **the purpose of ensuring aviation safety and compatible land use.** and equal

18 **Equal** consideration shall be given to rural aviation and commercial urban aviation.

19 Applications shall be made to the Department of Transportation and Development  
 20 by November first of each year, ~~beginning in 1989~~, for consideration of funding in

21 the following fiscal year, ~~except for the projects already on the priority list for 1989-~~

22 ~~90, which will be funded in the current year.~~ Applications submitted in accordance

23 with the provisions of this Chapter shall not be subject to the provisions of R.S. 39:

24 ~~61 and 62~~ **104, 111, 114, and 121.** Information to be provided in the application

25 shall include but not be limited to the following:

26 (a) Description of the project and demonstration of immediate need for the  
 27 project.

28 (b) Preliminary project design and cost estimate.

29 (c) Description of project area.

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The original instrument was prepared by Cathy Wells. The following digest, which does not constitute a part of the legislative instrument, was prepared by Christopher D. Adams.

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### DIGEST

Hebert (SB 651)

Present law authorizes the governing body of all incorporated cities, towns, villages, parishes, or other political subdivisions to promulgate, administer, and enforce airport zoning regulations limiting the height of structures and objects of natural growth and otherwise regulate the use of property in the vicinity of airports and landing fields.

Proposed law provides that if the governing body does adopt airport zoning regulations such regulations are required to comply with any U. S. Department of Transportation, Federal Aviation Administration (FAA) advisory circular, order, regulation, safety guideline, recommendation, or other official document in order to ensure aviation safety and compatible land use.

Present law authorizes a parish or other political subdivision to establish a permitting process to establish or construct new structures and other uses and to replace existing structures and other uses or make substantial changes therein or substantial repairs thereof in order to facilitate the enforcement of zoning regulations. Further requires a permit to be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change, or repair before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted.

Present law prohibits a permit to be issued that would allow any nonconforming structure or tree to grow higher, or becoming a greater hazard to air navigation.

Proposed law retains present law but requires the establishment of a permitting process.

Present law authorizes any airport authority to submit applications for funding from the DOTD airport construction and development priority program for any airport construction or development project.

Proposed law provides that if a governing body for an airport authority has adopted airport zoning ordinances, such regulations are required to comply with any U. S. Department of Transportation advisory circular, order, regulation, safety guideline, recommendation, or other official document in order to ensure aviation safety and compatible land use, to apply for such funding.

Effective August 15, 2010.

(Amends R.S. 2:381, 385(A), and 802(A)(1))

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill.

1. Technical Bureau amendments
2. Deletes obsolete language.