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H.654

Introduced by Representatives Townsend of South Burlington, Bissonnette of
Winooski, Gonzalez of Winooski, Head of South Burlington,
LaLonde of South Burlington, and Pugh of South Burlington

Referred to Committee on

Date:

Subject: Aeronautics; Burlington International Airport

Statement of purpose of bill as introduced: This bill proposes to:

(1) amend the charter of the City of Burlington to require the City of
Burlington to obtain approval from the legislative bodies of the cities of South
Burlington and of Winooski prior to submitting a noise compatibility program
or component thereof, or a substantive amendment thereto, to the Federal
Aviation Administration, and to create a mechanism to resolve disputes in the
event of disapproval by either city; and

(2) amend the charters of the cities of South Burlington and of Winooski
to confer authority to approve noise compatibility programs and program
components and participate in mediation related to the approval.

An act relating to Burlington International Airport and noise compatibility
programs

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Charter of City of Burlington * * *

3 Sec. 1. 24 App. V.S.A. chapter 3, § 276 is amended to read:

4 § 276. BOARD OF AIRPORT COMMISSIONERS; COMPOSITION;
5 TERMS; POWERS OF CITY COUNCIL; MANAGER APPROVAL
6 OF CERTAIN AIRPORT PLANS

7 (a)(1)(A) The Board of Airport Commissioners of the City of Burlington
8 shall consist of four legal voters of ~~said~~ the City to be appointed by the City
9 Council with the Mayor presiding to serve for three years and until their
10 successors are appointed and qualified.

11 (B) In addition, so long as the public aviation field and municipal
12 airport is located within the limits of the City of South Burlington, the Board
13 of Airport Commissioners shall likewise consist of one legal voter of ~~said~~ the
14 City of South Burlington to be appointed by the governing body thereof to
15 serve for three years and until a successor is appointed and qualified.

16 (2) ~~The~~ Except as provided in this section or otherwise by law, the City
17 Council shall have the exclusive general management and control of all lands
18 owned or leased and used by the City for the purpose of a municipal airport,
19 and of all buildings, property, and equipment of the City thereon, and shall see
20 that the same are kept in good condition and repair.

1 (3) The City Council may by resolution delegate any of its powers
2 relating to the airport to the Board of Airport Commissioners.

3 * * *

4 (c) The Director of Aviation shall have special and immediate care and
5 practical supervision of the Airport Department subject to the authority of the
6 Mayor as Chief Executive Officer and to the orders and ordinances of the City.

7 (d)(1) As used in this section and section 276a of this charter, “covered
8 proposal” means a noise compatibility program or a component thereof under
9 14 C.F.R. Part 150 (Airport Noise Compatibility Planning) or a proposed
10 substantive amendment thereto.

11 (2)(A) The City shall not submit a covered proposal to the Federal
12 Aviation Administration (FAA) unless:

13 (i) it has been approved by both the legislative bodies of the Cities
14 of South Burlington and of Winooski or both cities have waived in writing
15 their right to approve the covered proposal;

16 (ii) either the City of South Burlington or the City of Winooski
17 has waived in writing its right to approve the covered proposal, and the
18 legislative body of the other city has approved the covered proposal; or

19 (iii) arbitration required under section 276a of this charter has
20 resulted in a decision authorizing the City to submit the covered proposal.

1 (B) A covered proposal shall be deemed approved by the City of
2 South Burlington if not disapproved by its legislative body, or by the City of
3 Winooski if not disapproved by its legislative body, within 45 days after its
4 submission in writing by the City of Burlington.

5 (3) If arbitration required under section 276a of this charter has resulted
6 in a decision that an amended covered proposal of the City of South Burlington
7 or of the City of Winooski, or of both cities, is superior to the covered proposal
8 of the City of Burlington, the City of Burlington shall submit to the Federal
9 Aviation Administration:

10 (A) the amended covered proposal, if only one city was found to
11 have a superior covered proposal; or

12 (B) if the amended covered proposals of both cities were found
13 superior, the amended covered proposal that the arbitrator found to better
14 satisfy the purposes of subsection (b) of 14 C.F.R. part 150 App. B.

15 Sec. 2. 24 App. V.S.A. chapter 3, § 276a is added to read:

16 § 276a. ARBITRATION TO DETERMINE AUTHORITY TO SUBMIT

17 COVERED PROPOSAL

18 (a) If the legislative body of either the City of South Burlington or the City
19 of Winooski has disapproved a covered proposal, binding arbitration shall
20 occur pursuant to this section if requested in writing by the legislative body of

1 the City of Burlington, of South Burlington, or of Winooski. If so requested,
2 the three cities shall be parties to the arbitration.

3 (b) The parties shall mutually select a single arbitrator within five business
4 days after the day that arbitration is invoked under this section. If the parties
5 fail to select an arbitrator within five business days, they shall request the
6 services of the American Arbitration Association for the appointment of an
7 arbitrator.

8 (c)(1) Within 90 days after the appointment of the arbitrator or another
9 period of time agreed upon by the parties, the arbitrator shall hold a hearing
10 and shall decide in a written decision all disputed issues within his or her
11 jurisdiction, as jurisdiction is defined in this section.

12 (2) At the hearing, each party shall have full opportunity to submit all
13 relevant evidence, to introduce relevant documents and written material, and to
14 argue on behalf of its positions. The arbitrator shall preside over the hearing.

15 (3) At any time prior to the issuance of a decision by the arbitrator, the
16 parties may jointly file with the arbitrator any stipulations on issues that the
17 parties agree upon. The parties shall submit to the arbitrator their respective
18 positions on all issues in dispute between them.

19 (d) The arbitrator shall have jurisdiction to determine whether:

20 (1) the covered proposal of the City of Burlington satisfies the
21 requirements of 14 C.F.R. § 150.23, 14 C.F.R. part 150 App. B, and any other

1 federal requirement related to noise compatibility programs or components
2 thereof (collectively, “federal requirements”);

3 (2)(A) if the City of South Burlington proposes to amend the covered
4 proposal of the City of Burlington, whether the amended covered proposal
5 would satisfy federal requirements;

6 (B) if the City of Winooski proposes to amend the covered proposal
7 of the City of Burlington, whether the amended covered proposal would satisfy
8 federal requirements;

9 (3) if applicable, if both the covered proposal of the City of Burlington
10 and the amended covered proposal of the City of South Burlington satisfy
11 federal requirements, which proposal better satisfies the purposes of subsection
12 (b) of 14 C.F.R. part 150 App. B;

13 (4) if applicable, if both the covered proposal of the City of Burlington
14 and the amended covered proposal of the City of Winooski satisfy federal
15 requirements, which proposal better satisfies the purposes of subsection (b) of
16 14 C.F.R. part 150 App. B;

17 (5) if the arbitrator determines pursuant to subdivisions (3) and (4) of
18 this subsection that the amended covered proposals of the cities of South
19 Burlington and of Winooski fulfill federal requirements and are both superior
20 to the covered proposal of the City of Burlington, whether the amended

1 covered proposal of the City of South Burlington or of the City of Winooski
2 better satisfies the purposes of subsection (b) of 14 C.F.R. part 150 App. B.

3 (e)(1) If the arbitrator finds that the covered proposal of the City of
4 Burlington does not fulfill federal requirements, the City of Burlington shall
5 not have authority to submit the covered proposal to the FAA.

6 (2) The City of Burlington shall have authority to submit its covered
7 proposal to the FAA if the arbitrator finds that:

8 (A) the covered proposal of the City of Burlington fulfills federal
9 requirements; and

10 (B) either:

11 (i) the City of South Burlington and City of Winooski did not
12 submit an amended covered proposal that fulfills federal requirements; or

13 (ii) the City of South Burlington or of Winooski, or both,
14 submitted an amended covered proposal that fulfills federal requirements, but
15 neither city submitted a covered proposal that better satisfies the purposes of
16 subsection (b) of 14 C.F.R. part 150 App. B than the covered proposal of the
17 City of Burlington.

18 (f) The arbitrator shall have jurisdiction to resolve additional disputed
19 issues in accordance with the agreement of the parties.

20 (g) Upon application of a party, a Superior Court shall vacate the
21 arbitrator's decision only if:

1 (1) the decision was obtained by corruption, fraud, or other undue
2 means;

3 (2) there was evident partiality or prejudicial misconduct by the
4 arbitrator; or

5 (3) the arbitrator exceeded the scope of his or her jurisdiction under this
6 section or rendered an award requiring a person to commit an act or engage in
7 conduct prohibited by law.

8 (h) Except as provided in subsection (g) of this section, the decision of the
9 arbitrator shall be final and binding upon the parties.

10 (i) The parties shall share equally the fee of the arbitrator and all other
11 mutually incurred costs incidental to the arbitration.

12 * * * Charter of City of South Burlington * * *

13 Sec. 3. 24 App. V.S.A. chapter 13, § 310 is amended to read:

14 § 310. POWERS AND DUTIES

15 (a) The members of the Council shall be and constitute the legislative body
16 of the City of South Burlington for all purposes required by statutes and except
17 as otherwise herein specifically provided, shall have all powers and authority
18 given to, and perform all duties required of city legislative bodies under the
19 laws of the State of Vermont.

20 (b) Within the limitations of the foregoing, the Council shall have the
21 power to:

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(9) Vote to approve a covered proposal as described in subsection 276(d) of the charter of the City of Burlington (24 App. V.S.A. chapter 3), related to airport noise compatibility programs, and to participate in arbitration as described in section 276a of the charter of the City of Burlington.

* * * Charter of City of Winooski * * *

Sec. 4. 24 App. V.S.A. chapter 19, § 304 is amended to read:

§ 304. GENERAL POWERS AND DUTIES

(a) General powers. All powers of the City shall be vested in the Council, except as otherwise provided by law or this charter, and the Council shall provide for the exercise thereof for the performance of all duties and obligations imposed on the City by law.

(b) Additional powers. In addition to powers otherwise conferred upon it by law, the City, by the action of the Council or, if specifically required by law or this charter, by the action of its voters, has the following powers and rights, including:

* * *

(13) To vote to approve a covered proposal as described in subsection 276(d) of the charter of the City of Burlington (24 App. V.S.A. chapter 3), related to airport noise compatibility programs, and to participate in arbitration as described in section 276a of the charter of the City of Burlington.

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* * * Effective Date * * *

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Sec. 5. EFFECTIVE DATE

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This act shall take effect on July 1, 2018.