
SENATE BILL No. 260

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-21-10; IC 8-22-3-14.

Synopsis: Private use hospital heliports. Establishes imaginary surfaces for private use hospital heliports for purposes of regulating tall structures and utilities. Requires a utility whose overhead utility lines interfere with an imaginary surface of a private use hospital heliport to relocate the lines at the expense of the hospital. Allows an airport authority board, after consulting with the local zoning authority, to adopt an ordinance establishing an overlay zoning district for a noise sensitive area: (1) to promote aviation safety; or (2) to provide for land uses within the noise sensitive area that are compatible with and support airport operations.

Effective: July 1, 2007.

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January 11, 2007, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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SENATE BILL No. 260



A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-21-10-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this
3 chapter:

4 "Department" refers to the Indiana department of transportation.
5 "Noise sensitive area" means an area lying one thousand five
6 hundred (1,500) feet on either side of:
7 (1) the centerline of; and
8 (2) the extended centerline of;
9 a runway, for a distance of one (1) nautical mile from the
10 boundaries of any public use airport.

11 "Noise sensitive purpose" means the use of a building or structure
12 as a residence, school, church, child care facility, medical facility,
13 retirement home, or nursing home.

14 "Permit" means a permit issued by the department under this
15 chapter.

16 "Person" means any individual, firm, partnership, corporation,
17 company, limited liability company, association, joint stock



1 association, or body politic, including any trustee, receiver, assignee,
2 or other similar representative.

3 "Public use airport" means any area, site, or location, either on land,
4 water, or upon any building, which is specifically adapted and
5 maintained for the landing and taking off of aircraft, and utilized or to
6 be utilized in the interest of the public for such purposes. The term
7 does not include:

- 8 (1) any private use airport or landing field; or
- 9 (2) any military airport solely occupied by any federal branch of
10 government using that airport for military air purposes.

11 "Structure" means any object constructed or installed by man,
12 including, but not limited to, cranes, buildings, towers, smokestacks,
13 electronic transmission or receiving towers, buildings used for a noise
14 sensitive purpose, and antennae and overhead transmission lines.

15 SECTION 2. IC 8-21-10-3 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Unless a permit
17 has been issued by the department, a person may not erect, alter, or add
18 to the height of any structure which falls within any one (1) of the
19 following categories:

20 (1) Any construction or alteration of more than two hundred (200)
21 feet above ground level at its site.

22 (2) Any construction or alteration of greater height than an
23 imaginary surface extending outward and upward at one (1) of the
24 following slopes:

25 (A) One hundred (100) to one (1) for a horizontal distance of
26 twenty thousand (20,000) feet from the nearest point of the
27 nearest runway of any public use airport with at least one (1)
28 runway more than three thousand two hundred (3,200) feet in
29 actual length, excluding heliports.

30 (B) Fifty (50) to one (1) for a horizontal distance of ten
31 thousand (10,000) feet from the nearest point of the nearest
32 runway of any public use airport with its longest runway no
33 more than three thousand two hundred (3,200) feet in actual
34 length, excluding heliports.

35 (C) Twenty-five (25) to one (1) for a horizontal distance of
36 five thousand (5,000) feet from the nearest point of the nearest
37 landing and takeoff area of any public use heliport.

38 (3) Any construction or alteration of traverse ways used, or to be
39 used, for the passage of mobile objects if the standards set forth
40 under subdivisions (1) and (2) would be exceeded, but only after
41 the heights of these traverse ways are increased by:

42 (A) Seventeen (17) feet for an interstate highway where

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- 1 overcrossings are designed for a minimum of seventeen (17)
- 2 feet vertical distance.
- 3 (B) Fifteen (15) feet for any other public roadway.
- 4 (C) Ten (10) feet or the height of the highest mobile object that
- 5 would normally traverse the road, whichever is greater, for a
- 6 private road.
- 7 (D) Twenty-three (23) feet for a railroad.
- 8 (E) For a waterway or any other traversed way not previously
- 9 mentioned, an amount equal to the height of the highest
- 10 mobile object that would normally traverse it.

(b) Unless:

- 11
- 12 (1) a permit for construction in a noise sensitive area has been
- 13 approved by the department;
- 14 (2) the holder of a permit for construction in a noise sensitive area
- 15 has filed a copy of the permit for construction in a noise sensitive
- 16 area with the county recorder of the county in which the structure
- 17 is located, as provided in subsection ~~(d)~~; **(f)**; and
- 18 (3) a certified copy of the recorded permit for construction in a
- 19 noise sensitive area, with the recording data from the county
- 20 recorder on the copy of the permit, has been received by the
- 21 department;

22 a person may not erect a building used for a noise sensitive purpose
23 within an area lying one thousand five hundred ~~(1,500)~~ feet on either
24 side of the centerline and the extended centerline of a runway for a
25 distance of one ~~(1)~~ nautical mile from the boundaries of any public use
26 **airport: a noise sensitive area.**

27 (c) A person applying for a permit under subsection (a) must
28 provide notice, at the time of the filing of the application for a permit,
29 to the owner of a public use airport located within a five (5) nautical
30 mile radius surrounding the structure, regardless of county lines, if the
31 structure that is the subject of the permit is:

- 32 (1) a new structure; or
- 33 (2) an existing structure to which additional height is added.

34 (d) A person applying for a permit for construction in a noise
35 sensitive area under subsection (b) must provide notice, at the time of
36 the filing of the application for a permit, to the owner of a public use
37 airport if the public use airport is located within a distance of one (1)
38 nautical mile from the boundary of the property that contains the
39 building used for a noise sensitive purpose.

40 (e) Notice under subsections (c) and (d) must be sent by certified or
41 registered mail, with return receipt requested, and must include the:

- 42 (1) name, telephone number, and a contact person for the:

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1 (A) applicant;
 2 (B) department; and
 3 (C) plan commission that has jurisdiction over the site of the
 4 structure;
 5 (2) location of the structure, including a legal description;
 6 (3) height of the structure; and
 7 (4) Federal Aviation Administration aeronautical study number
 8 assigned to the application, if applicable to the type of permit for
 9 which notice is required.

10 (f) The applicant for a permit under subsection (b) shall record each
 11 permit issued by the department in the office of the county recorder for
 12 the county where the structure is located, not later than five (5)
 13 business days after the department issues the permit. If a structure is
 14 located in more than one (1) county, the county that contains the
 15 majority of the structure is the county in which the permit must be
 16 filed.

17 (g) A permit issued under subsection (b) is valid only after the
 18 department receives a certified copy of the recorded permit with the
 19 recording data from the county recorder of the county in which the
 20 structure is located.

21 (h) A permit issued under subsection (b) must contain the following
 22 statement:
 23 "The permittee acknowledges for itself, its heirs, its successors,
 24 and its assigns, that the real estate described in this permit
 25 experiences or may experience significant levels of aircraft
 26 operations, and that the permittee is erecting a building designed
 27 for noise sensitive use upon the real estate, with the full
 28 knowledge and acceptance of the aircraft operations as well as
 29 any effects resulting from the aircraft operations."

30 (i) An applicant for a permit under subsection (a) must provide
 31 written evidence to the department that the structure being constructed
 32 does not violate section 7 of this chapter with regard to an existing
 33 public use airport, if a public use airport is located within a five (5)
 34 nautical mile radius surrounding the structure that is the subject of the
 35 permit.

36 (j) Unless a denial of permit is issued by the department, a
 37 Determination of No Hazard to Air Navigation from the Federal
 38 Aviation Administration is a permit under this section, and a separate
 39 permit will not be issued by the department.

40 SECTION 3. IC 8-21-10-8 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The following
 42 airport imaginary surfaces are established with relation to any

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- 1 public-use airport and to each runway:
- 2 (1) Horizontal surface: a horizontal plane one hundred fifty (150)
- 3 feet above the established airport elevation, the perimeter of
- 4 which is constructed by swinging arcs of specified radii from the
- 5 center of each end of the primary surface of each runway of each
- 6 airport and connecting the adjacent arcs by lines tangent to those
- 7 arcs. The radii of each arc is five thousand (5,000) feet for all
- 8 runways designated as utility or visual, and ten thousand (10,000)
- 9 feet for all other runways.
- 10 (2) Conical surface: a surface extending outward and upward
- 11 from the periphery of the horizontal surface at a slope of twenty
- 12 (20) to one (1) for a horizontal distance of four thousand (4,000)
- 13 feet.
- 14 (3) Primary surface: a surface longitudinally centered on a
- 15 runway. When the runway has a specially prepared hard surface,
- 16 the primary surface extends two hundred (200) feet beyond each
- 17 end of the runway, but when the runway has no specially prepared
- 18 hard surface, the primary surface ends at each end of that runway.
- 19 The width of a primary surface is the following:
- 20 (A) Two hundred fifty (250) feet for utility runways having
- 21 only visual approaches.
- 22 (B) Five hundred (500) feet for utility runways having
- 23 nonprecision instrument approaches.
- 24 (C) For other than utility runways, the width is the following:
- 25 (i) Five hundred (500) feet for visual runways having only
- 26 visual approaches.
- 27 (ii) Five hundred (500) feet for nonprecision instrument
- 28 runways having visibility minimums greater than
- 29 three-fourths (3/4) of a statute mile.
- 30 (iii) One thousand (1,000) feet for a nonprecision instrument
- 31 runway, having a nonprecision instrument approach with
- 32 visibility minimums as low as three-fourths (3/4) of a statute
- 33 mile, and for precision instrument runways.
- 34 (4) Approach surface: a surface longitudinally centered on the
- 35 extended runway centerline and extending outward and upward
- 36 from each end of the primary surface. An approach surface is
- 37 applied to each end of each runway based upon the type of
- 38 approach available or planned for that runway end. The following
- 39 also applies to the approach surface:
- 40 (A) The inner edge of the approach surface is the same width
- 41 as the primary surface and it expands uniformly to a width of
- 42 the following:

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- 1 (i) One thousand two hundred fifty (1,250) feet for that end
- 2 of a utility runway with only visual approaches.
- 3 (ii) One thousand five hundred (1,500) feet for that end of a
- 4 runway other than a utility runway with only visual
- 5 approaches.
- 6 (iii) Two thousand (2,000) feet for that end of a utility
- 7 runway with a nonprecision instrument approach.
- 8 (iv) Three thousand five hundred (3,500) feet for that end of
- 9 a nonprecision instrument runway other than utility, having
- 10 visibility minimums greater than three-fourths (3/4) of a
- 11 statute mile.
- 12 (v) Four thousand (4,000) feet for that end of a nonprecision
- 13 instrument runway, other than utility, having a nonprecision
- 14 instrument approach with visibility minimums as low as
- 15 three-fourths (3/4) of a statute mile.
- 16 (vi) Sixteen thousand (16,000) feet for precision instrument
- 17 runways.
- 18 (B) The approach surface extends for a horizontal distance of
- 19 the following:
- 20 (i) Five thousand (5,000) feet at a slope of twenty (20) to
- 21 one (1) for all utility and visual runways.
- 22 (ii) Ten thousand (10,000) feet at a slope of thirty-four (34)
- 23 to one (1) for all nonprecision instrument runways other than
- 24 utility.
- 25 (iii) Ten thousand (10,000) feet at a slope of fifty (50) to one
- 26 (1) with an additional forty thousand (40,000) feet at a slope
- 27 of forty (40) to one (1) for all precision instrument runways.
- 28 (5) Transitional surfaces: these surfaces extend outward and
- 29 upward at right angles to the runway centerline and the runway
- 30 centerline extended at a slope of seven (7) to one (1) from the
- 31 sides of the primary surface and from the sides of the approach
- 32 surfaces. Transitional surfaces for those portions of the precision
- 33 approach surface which project through and beyond the limits of
- 34 the conical surface, extend a distance of five thousand (5,000) feet
- 35 measured horizontally from the edge of the approach surface and
- 36 at right angles to the runway centerline.
- 37 (b) As used in subsection (a) in establishing airport imaginary
- 38 surfaces:
- 39 "Nonprecision instrument runway" means a runway having an
- 40 existing instrument approach procedure utilizing air navigation
- 41 facilities with only horizontal guidance, or area type navigation
- 42 equipment, for which a straight-in nonprecision instrument approach

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1 procedure has been approved, or planned, and for which no precision
2 approach facilities are planned, or indicated on a Federal Aviation
3 Administration planning document.

4 "Precision instrument runway" means a runway having an existing
5 instrument approach procedure utilizing an instrument landing system
6 (ILS), microwave landing system (MLS), or a precision approach radar
7 (PAR). It also means a runway for which a precision approach system
8 is planned and is so indicated by a Federal Aviation Administration
9 approved airport layout plan or other planning document.

10 "Utility runway" means a runway that is constructed for and
11 intended to be used by propeller driven aircraft of twelve thousand five
12 hundred (12,500) pounds maximum gross weight or less.

13 "Visual runway" means a runway intended solely for the operation
14 of aircraft using visual approach procedures, with no straight-in
15 instrument approach procedure and no instrument designation
16 indicated on a Federal Aviation Administration approved airport layout
17 plan or any other planning document.

18 (c) The following heliport imaginary surfaces are established with
19 relation to any public-use heliport **or private use hospital heliport:**

20 (1) Heliport primary surface: the area of the primary surface
21 coincides in size and shape with the designated takeoff and
22 landing area of a heliport. This surface is a horizontal plane at the
23 elevation of the established heliport elevation.

24 (2) Heliport approach surface: the approach surface begins at
25 each end of the heliport primary surface with the same width as
26 the primary surface, and extends outward and upward for a
27 horizontal distance of four thousand (4,000) feet where its width
28 is five hundred (500) feet. The slope of the approach surface is
29 eight (8) to one (1) for civil heliports.

30 (3) Heliport transitional surfaces: these surfaces extend outward
31 and upward from the lateral boundaries of the heliport primary
32 surface and from the approach surfaces at a slope of two (2) to
33 one (1) for a distance of two hundred fifty (250) feet measured
34 horizontally from the centerline of the primary and approach
35 surfaces.

36 (d) **For purposes of this subsection, "utility" means a public**
37 **utility (as defined in IC 8-1-2-1(a)), a municipally owned utility (as**
38 **defined in IC 8-1-2-1(h)), or a cooperatively owned utility. Upon**
39 **the request of a hospital with a private use heliport, a utility whose**
40 **utility lines interfere with or otherwise obstruct an imaginary**
41 **surface of the hospital's private use heliport shall relocate the**
42 **utility lines to comply with the imaginary surfaces established**

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1 **under subsection (c). The hospital shall reimburse the utility for**
2 **reasonable expenses incurred in complying with a request under**
3 **this subsection.**

4 SECTION 4. IC 8-22-3-14 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) In order to
6 provide free air space for the safe descent and ascent of aircraft and for
7 the proper and safe use of an airport or landing field acquired or
8 maintained under this chapter, the board may establish by ordinance or
9 ordinances a restricted zone or zones of a distance in any direction
10 from the boundaries of the airport or landing field so that no building
11 or other structure is erected high enough to interfere with the descent
12 of an aircraft at an approach angle necessary for safety for the usual
13 type of operation that is conducted at the airport or landing field. If the
14 authority was established under IC 19-6-3 (before its repeal on April 1,
15 1980), this action is subject to approval by the fiscal body of any
16 eligible entity within or coterminous with the boundaries of the district.

17 (b) The board may acquire by condemnation or purchase, upon the
18 payment of due compensation, the right to prevent the erection of, and
19 to require the removal of, all buildings, towers, poles, wires, cables,
20 other structures, and trees within the zone or zones that interfere with
21 the gliding angle or as much of any structure or trees that interfere with
22 the gliding angles. When a restricted zone or zones ~~has~~ **have** been
23 established, a permit issued by a department or office of an eligible
24 entity or by any state or other authority for the erection of any structure
25 extending into such zone or zones is effective only if approved by the
26 board. Establishment of a restricted zone or zones outside of an airport
27 or landing field, in connection with the condemnation of the rights in
28 the land, constitutes condemnation and the perpetual annihilation of all
29 rights of the owners of the property within the zone or zones to erect or
30 maintain any building or structure that will interfere with the gliding
31 angle. This result may be accomplished by absolute condemnation of
32 the land, with perpetual and irrevocable free license to use and occupy
33 the land within the zone for all purposes except the erection of
34 buildings or other structures above the height so prescribed.

35 (c) The part of a restricted zone that extends below fifty (50) feet
36 measured vertically from the land may be established only by purchase
37 or proceedings in eminent domain. That part of a restricted zone that
38 is fifty (50) or more feet above the surface of the land is in effect
39 immediately upon the adoption of a zoning ordinance. However, the
40 owners of land beneath a restricted zone have the right to recover
41 damages that may be proven in an action brought for that purpose. In
42 an action for damages, the owner has the burden of proving damage by

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reason of the establishment of the restricted zone.

(d) The board may establish an overlay zoning district within a noise sensitive area (as defined in IC 8-21-10-2):

(1) to promote aviation safety; or

(2) to provide for land uses within the noise sensitive area (as defined in IC 8-21-10-2) that are compatible with and support airport operations.

Before the board may adopt an ordinance establishing the overlay zoning district, the board shall consult with the appropriate local planning and zoning authority within the board's district.

~~(d)~~ **(e)** The zoning jurisdiction granted in this section is exclusive against jurisdiction granted by any other statute unless the other statute specifically provides otherwise. In case of conflict with any airport zoning or other regulations promulgated by an eligible entity, the regulations adopted under this section prevail.

~~(e)~~ **(f)** All airport zoning regulations adopted under this chapter must be reasonable and may not impose a requirement or restriction that is not reasonably necessary to effectuate the purposes of this chapter. In determining what regulations to adopt, the board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable. However, this section does not apply to the location, relocation, erection, construction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures on lands owned by a public utility or railroad.

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