

# HOUSE BILL No. 1045

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-21.

**Synopsis:** State airport systems plan. Defines "joint use airport". Provides that including joint use airports in the state airport systems plan best serves the interests of the state. Requires the department of transportation to include joint use airports in the state airports system plan. Includes joint use airports in the airport development program. Makes a technical correction.

**Effective:** July 1, 2013.

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**Friend, Karickhoff**

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January 7, 2013, read first time and referred to Committee on Roads and Transportation.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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# HOUSE BILL No. 1045



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

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

1 SECTION 1. IC 8-21-1-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) The definitions in this section  
3 apply throughout this article.  
4 (b) "Aeronautics" means:  
5 (1) transportation by aircraft;  
6 (2) the operation, construction, repair, or maintenance of aircraft,  
7 aircraft power plants and accessories, including the repair,  
8 packing, and maintenance of parachutes;  
9 (3) the design, establishment, construction, extension, operation,  
10 improvement, repair, or maintenance of airports, landing fields,  
11 or other air navigation facilities; and  
12 (4) air instruction.  
13 (c) "Aircraft" means any contrivance now known, or hereafter  
14 invented, used or designed for navigation of or flight in the air.  
15 (d) "Public aircraft" means an aircraft used exclusively in the  
16 service of any government or of any political subdivision of a  
17 government, including the government of any state but not including



1 any government owned aircraft engaged in carrying persons or property  
2 for commercial purposes.

3 (e) "Civil aircraft" means any aircraft other than a public aircraft.

4 (f) "Airport" means any location either on land or water which is  
5 used for the landing and taking off of aircraft.

6 (g) "Department" refers to the Indiana department of transportation.

7 (h) "Landing field" means any airport which provides neither  
8 facilities nor services other than an area designated for the landing and  
9 taking off of aircraft.

10 (i) "Air navigation facility" means any facility other than one owned  
11 or controlled by the federal government, used in, available for use in,  
12 or designed for use in aid of air navigation, including:

13 (1) airports;

14 (2) landing fields;

15 (3) any structures, mechanisms, lights, beacons, marks,  
16 communicating systems, or other instrumentalities or devices  
17 used or useful as an aid, or constituting an advantage or  
18 convenience, to the safe taking-off, navigation, and landing of  
19 aircraft, or the safe and efficient operation or maintenance of an  
20 airport or landing field; and

21 (4) any combination of any or all of such facilities.

22 (j) "Air navigation" means the operation or navigation of aircraft in  
23 the air space over this state, or upon any airport or landing field within  
24 this state.

25 (k) "Operation of aircraft" or "operate aircraft" means the use of  
26 aircraft for the purpose of air navigation, and includes the navigation  
27 or piloting of aircraft. Any person who causes or authorizes the  
28 operation of aircraft, whether with or without the right of legal control  
29 (in the capacity of owner, lessee, or otherwise) of the aircraft, is  
30 considered to be engaged in the operation of aircraft within the  
31 meaning of the Indiana statutes.

32 (l) "Airman" means any individual who engages, as the person in  
33 command, or as pilot, mechanic, or member of the crew, in the  
34 navigation of aircraft while under way and (excepting individuals  
35 employed outside the United States, any individual employed outside  
36 the United States, any individual employed by a manufacturer of  
37 aircraft, aircraft engines, propellers, or appliances to perform duties as  
38 inspector or mechanic in connection therewith, and any individual  
39 performing inspection or mechanical duties in connection with aircraft  
40 owned or operated by the individual) any individual who is directly in  
41 charge of the inspection, maintenance, overhauling, or repair of aircraft  
42 engines, propellers, or appliances and any individual who serves in the

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1 capacity of aircraft dispatcher or air-traffic control-tower operator.

2 (m) "Air instruction" means the imparting of aeronautical  
3 information by any aeronautics instructor or in or by any air school or  
4 flying club.

5 (n) "Air school" means any person engaged in giving, or offering to  
6 give, instruction in aeronautics, either in flying or ground subjects, or  
7 both, for or without hire or reward, and advertising, representing, or  
8 professing to give or offer to give such instruction.

9 (o) "Aeronautics instructor" means an individual engaged in giving  
10 instruction, or offering to give instruction, in aeronautics, either in  
11 flying or ground subjects, or both, for hire or reward, without  
12 advertising such occupation, without calling the individual's facilities  
13 an air school or anything equivalent thereto, and without employing or  
14 using other instructors.

15 (p) "Flying club" means any person other than an individual, which,  
16 neither for profit nor reward, owns, leases, or uses one (1) or more  
17 aircraft for the purpose of instruction or pleasure, or both.

18 (q) "Person" means any individual, firm, partnership, corporation,  
19 company, limited liability company, association, joint stock  
20 association, or body politic. The term includes any trustee, receiver,  
21 assignee, or other similar representative.

22 (r) "State airway" means a route in the navigable air space over and  
23 above the lands or water of Indiana designated by the department as a  
24 route suitable for air navigation.

25 (s) "Navigable air space" means air space above the minimum  
26 altitudes of flight prescribed by Indiana laws or by rules of the  
27 department consistent with Indiana laws.

28 (t) "Municipality" means any county, city, or town of Indiana and  
29 any other political subdivision, public corporation, authority, or district  
30 in Indiana which is or may be authorized by law to acquire, establish,  
31 construct, maintain, improve, and operate airports and other air  
32 navigation facilities.

33 (u) "Airport protection privileges" means easements through or  
34 other interests in air space over land or water, interests in airport  
35 hazards outside the boundaries of airports or landing fields, and other  
36 protection privileges, the acquisition or control of which is necessary  
37 to ensure safe approaches to the landing areas of the airports and  
38 landing fields and the safe and efficient operation of airports and  
39 landing fields.

40 (v) "Airport hazard" means any structure, object of natural growth,  
41 or use of land, which obstructs the air space required for the flight of  
42 aircraft in landing or taking off at any airport or landing field or is

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1 otherwise hazardous to such landing or taking off.

2 (w) "CAB-certificated air carrier" means an air carrier which is  
3 operating under a valid certificate of public convenience and necessity  
4 issued by the Civil Aeronautics Board under Public Law 85-726, Title  
5 VI, Aug. 23, 1958, 72 Stat. 754, 49 U.S.C. 1371 as amended.

6 (x) "**Joint use airport**" means an airport that is:

7 (1) **owned by the United States Department of Defense; and**

8 (2) **used by both military and civilian aircraft.**

9 SECTION 2. IC 8-21-1-8 IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) The department shall  
11 encourage, foster, and assist in the development of aeronautics in this  
12 state and shall encourage the establishment of airports, landing fields,  
13 and other navigation facilities.

14 (b) The department shall cooperate with and assist the federal  
15 government, the political subdivisions of this state, and others engaged  
16 in aeronautics or the advancement of aeronautics and shall seek to  
17 coordinate the aeronautical activities of these bodies.

18 (c) All rules prescribed by the department concerning aeronautics  
19 shall be kept in conformity with, and limited to as nearly as may be, the  
20 then current federal legislation governing aeronautics and the  
21 regulations duly promulgated thereunder.

22 (d) The department shall develop and continuously update a  
23 proposed state airports system plan which will best serve the interests  
24 of the state and its political subdivisions. Such state airports system  
25 plan shall be coordinated with the national airport plan prepared by the  
26 federal agency fostering civil aviation. **The general assembly**  
27 **determines that it best serves the interests of the state and its**  
28 **political subdivisions to include joint use airports in the state**  
29 **airports system plan. The department shall include joint use**  
30 **airports in the state airports system plan.**

31 (e) The department may publish and revise from time to time a state  
32 airways system plan, and maps, directories, or other materials deemed  
33 necessary may be sold by the department at a price which shall be fixed  
34 by the department. All money accruing from the sale of any such  
35 publication:

36 (1) shall be paid into the state treasury;

37 (2) shall be credited to the department; and

38 (3) is hereby appropriated to such department to be used for  
39 future publications by the department, without reversion to the  
40 general fund of the state at the end of any fiscal year. However,  
41 any time the balance in said fund exceeds ten thousand dollars  
42 (\$10,000), such excess shall revert to the general fund of the state.

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1 (f) The department may offer the engineering or other technical  
2 advice of the department, without charge, to any municipality or person  
3 desiring them in connection with the construction, maintenance, or  
4 operation or proposed construction, maintenance, or operation of an  
5 airport or landing field.

6 (g) The department may recommend necessary legislation to  
7 advance the interests of the state in aeronautics and represent the state  
8 in aeronautical matters before federal agencies and other state agencies.

9 (h) The department shall have the power to approve or disapprove  
10 all purchases made by any municipality of any land to be used by said  
11 municipality for the establishment of any airport or landing field, and  
12 the establishment by any municipality of any airport or landing field.

13 (i) The department may participate as party plaintiff or defendant,  
14 or as intervener on behalf of the state or any municipality or citizen  
15 thereof in any controversy having to do with any claimed encroachment  
16 by the federal government or any foreign state upon any state or  
17 individual rights pertaining to aeronautics.

18 (j) Municipalities are authorized to cooperate with the department  
19 in the development of aeronautics and aeronautical facilities and  
20 services of other agencies of the state to the utmost extent possible, and  
21 such agencies are authorized and directed to make available such  
22 facilities and services.

23 (k) The department, or any employee designated by it, shall have the  
24 power to hold investigations, and hearings concerning matters covered  
25 by this chapter and orders and rules of the department, in accordance  
26 with IC 4-21.5. All hearings so conducted shall be open to the public.  
27 The reports of investigations or hearings, or any part thereof, shall not  
28 be admitted in evidence or used for any purpose in any suit, action, or  
29 proceeding, growing out of any matter referred to in said investigation,  
30 hearing, or report thereof, except in case of criminal or other  
31 proceedings instituted in behalf of the department or this state under  
32 the provisions of this chapter and other laws of this state.

33 (l) The department may render advice in the acquisition,  
34 development, operation, or maintenance of airports owned, controlled,  
35 or operated, or to be owned, controlled, or operated, by municipalities  
36 in this state.

37 (m) The department may not grant any exclusive right for the use of  
38 any airway, airport, landing field, or other air navigation facility under  
39 its jurisdiction. This subsection shall not prevent the making of leases  
40 in accordance with other provisions of this chapter.

41 (n) Gifts or grants of money for aeronautical purposes may be  
42 received by the state and shall be deposited in an aviation fund.

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1 Disbursal of such funds shall be for aeronautical purposes only or for  
 2 the purpose for which they were given or granted. Gifts or grants of  
 3 property for aeronautical purposes may be received by the state and  
 4 shall be used for the purpose given or granted. Gifts or grants of money  
 5 or property for aeronautical purposes must be administered in the same  
 6 manner as other gifts and grants received by the state are administered.

7 (o) The department may adopt rules under IC 4-22-2 ~~and subject to~~  
 8 ~~IC 8-9-5-2.6(7)~~ for the control of aircraft accident sites in Indiana. Until  
 9 representatives of appropriate federal agencies arrive on the site of an  
 10 aircraft accident, state and local law enforcement agencies and accident  
 11 investigation agencies shall comply with any rules adopted by the  
 12 department under this section.

13 (p) The department may, with written approval of the budget  
 14 agency, purchase and operate aircraft forfeited under IC 34-24-1 (or  
 15 IC 34-4-30.1 before its repeal). When the department acquires an  
 16 aircraft, it shall pay all proper expenses of the proceedings for  
 17 forfeiture and sale, including expenses of seizure, maintenance of  
 18 custody, and advertising and court costs.

19 SECTION 3. IC 8-21-1-14 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. (a) The department  
 21 shall encourage the development of public use airports (as defined in  
 22 49 U.S.C. 47102) **and joint use airports.**

23 (b) The department shall encourage the utilization and preservation  
 24 of necessary airport facilities that are included in the National Airport  
 25 and Airways System Plan and the state airports system plan and that:

- 26 (1) have been developed and maintained by private enterprise;
- 27 (2) meet the requirements of section 10 of this chapter concerning
- 28 certification of airports; and
- 29 (3) have been established and are used by the public as a
- 30 municipal purpose airport as described under IC 6-1.1-10-15.

31 (c) The department may participate and cooperate with the Federal  
 32 Aviation Agency and with the sponsor (as defined in IC 8-21-8-1) and  
 33 owner of a public use airport (as defined in 49 U.S.C. 47102) by using  
 34 airport development funds administered by the department.

- 35 (d) The sponsor of any approved airport development project must:
- 36 (1) provide the sponsor's share of funds for the project; and
  - 37 (2) meet any other requirements for participation and operation of
  - 38 the airport.

39 (e) IC 8-21-8-1 applies to this section.

40 SECTION 4. IC 8-21-11-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. Notwithstanding  
 42 IC 8-21-1-1, as used in this chapter, "airport" means:

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- 1 (1) a public use airport (as defined in 49 U.S.C. 47102); or
- 2 (2) a joint use airport.

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