

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

H.180

Introduced by Representatives Townsend of South Burlington, Colston of
Winooski, Gonzalez of Winooski, Killacky of South
Burlington, LaLonde of South Burlington, and Pugh of South
Burlington

Referred to Committee on

Date:

Subject: Aeronautics; Burlington International Airport; charter; City of
Burlington; City of South Burlington; City of Winooski

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 Winooski prior to submitting a noise compatibility program, a
substantive amendment thereto, or a revised noise compatibility program to the
Federal Aviation Administration, and to create a binding arbitration
mechanism to resolve disputes in the event of disapproval by either the City of
South Burlington or the City of Winooski, or both; and

(2) amend the charters of the Cities of South Burlington and Winooski
to confer authority to (a) approve noise compatibility programs, substantive
amendments thereto, and revised noise compatibility programs, and (b)
participate in binding arbitration related to the same.

1 An act relating to Burlington International Airport and noise compatibility
2 programs

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

4 * * * Charter of City of Burlington * * *

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

6 § 276. BOARD OF AIRPORT COMMISSIONERS; COMPOSITION;

7 TERMS; POWERS OF CITY COUNCIL; AIRPORT

8 MANAGEMENT APPROVAL OF CERTAIN AIRPORT PLANS

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

* * *

(d)(1) As used in this section and section 276a of this charter:

(A) “Covered proposal” means a noise compatibility program under 14 C.F.R. Part 150 (Airport Noise Compatibility Planning), a substantive amendment to a noise compatibility program, an application to the Federal Aviation Administration (FAA) for funding to implement a noise compatibility program, or a revised noise compatibility program.

(B) “Component” means a specific noise mitigation measure that could be included in a noise compatibility program or a revised noise compatibility program.

(C) “Superior covered proposal” is a covered proposal that satisfies the requirements of 14 C.F.R. § 150.23 as may be amended and any other federal requirements related to noise compatibility programs, and that best satisfies the purposes of subsection (b) of 14 C.F.R. Part 150 App. B as may be amended for the Burlington International Airport and neighboring municipalities.

(2) The City shall not submit its covered proposal to the FAA unless:

(A) the legislative bodies of both the City of South Burlington and the City of Winooski either approved the City’s covered proposal or waived, in writing, the right to approve the City’s covered proposal;

1 (B) neither the City of South Burlington nor the City of Winooski
2 requested arbitration pursuant to section 276a of this charter; or

3 (C) arbitration required under section 276a of this charter resulted in
4 a decision authorizing the City to submit its covered proposal.

5 (3) If arbitration required under section 276a of this charter results in a
6 decision that the City's covered proposal is not the superior covered proposal,
7 then the City shall submit the superior covered proposal as determined by the
8 arbitrator to the FAA.

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

10 § 276a. ARBITRATION TO DETERMINE AUTHORITY TO SUBMIT

11 COVERED PROPOSAL

12 (a) Binding arbitration shall occur pursuant to this section if the legislative
13 body of either the City of South Burlington or the City of Winooski
14 disapproved the City of Burlington's covered proposal and requested binding
15 arbitration in writing within 45 days after the City of Burlington's submission
16 of its covered proposal to the disapproving city. The Cities of Burlington,
17 South Burlington, and Winooski may all be parties to the arbitration.

18 (b) The parties shall mutually select a single arbitrator within five business
19 days after the day that arbitration is invoked under this section. If the parties
20 fail to select an arbitrator within five business days, they shall request the

1 services of the American Arbitration Association for the appointment of an
2 arbitrator.

3 (c) Within 30 days after the appointment of the arbitrator or another period
4 agreed upon by the parties, a disapproving city shall submit a briefing to the
5 arbitrator and all other parties that, at a minimum, includes what components
6 of the City of Burlington's covered proposal it disapproves of and how such
7 component should be amended, or what components should be added to or
8 deleted from the City's covered proposal; or, and only in the case of an
9 application to the Federal Aviation Administration (FAA) for funding to
10 implement a noise compatibility program, how such application should be
11 amended. The City shall have 30 days or another period agreed to by the
12 parties to reply to any briefings submitted by a disapproving city.

13 (d)(1) Within 90 days after the appointment of the arbitrator or another
14 period agreed upon by the parties, the arbitrator shall hold and preside over a
15 hearing and shall decide in a written decision all disputed issues within his or
16 her jurisdiction, as jurisdiction is defined in this section.

17 (2) At the hearing, each party shall have full opportunity to submit all
18 relevant evidence, including expert testimony, to introduce relevant documents
19 and written material, and to argue on behalf of its positions. Strict adherence
20 to the rules of evidence may not be required.

21 (3) The arbitrator may permit posthearing submissions.

1 (e) The arbitrator shall have jurisdiction to, where applicable:

2 (1) determine if the City of Burlington's covered proposal is the superior
3 covered proposal and, if not, what components should be amended, added to,
4 or deleted from the City's covered proposal to make it the superior covered
5 proposal; and

6 (2) resolve additional disputed issues in accordance with the agreement
7 of the parties, including if and how an application to the FAA for funding to
8 implement a noise compatibility program should be amended to make it the
9 superior covered proposal.

10 (f) The City of Burlington is only authorized to submit its covered proposal
11 to the FAA if the arbitrator finds that it is the superior covered proposal.
12 Otherwise, the City must submit the superior covered proposal as determined
13 by the arbitrator.

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

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

18 (2) there was evident partiality or prejudicial misconduct by the
19 arbitrator; or

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

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

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

8 * * * Charter of City of South Burlington * * *

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

10 § 310. POWERS AND DUTIES

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

16 (b) Within the limitations of the foregoing, the Council shall have the
17 power to:

18 * * *

19 (9) Vote to approve or disapprove a covered proposal as described in
20 chapter 3, subsection 276(d) of this title (charter of the City of Burlington),
21 related to airport noise compatibility programs, and to participate in arbitration

1 as described in chapter 3, section 276a of this title (charter of the City of
2 Burlington).

3 * * * Charter of City of Winooski * * *

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

5 § 304. GENERAL POWERS AND DUTIES

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

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

14 * * *

15 (13) To vote to approve or disapprove a covered proposal as described
16 in chapter 3, subsection 276(d) of this title (charter of the City of Burlington),
17 related to airport noise compatibility programs, and to participate in arbitration
18 as described in chapter 3, section 276a of this title (charter of the City of
19 Burlington).

1

* * * Effective Date * * *

2

Sec. 5. EFFECTIVE DATE

3

This act shall take effect on July 1, 2019.