

## CHAPTER 114

## AERONAUTICS AND ASTRONAUTICS

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## SUBCHAPTER I

## AIR TRANSPORTATION

**114.001 Definitions.** In this chapter:

- (1) "Department" means the department of transportation.
  - (2) "Division of hearings and appeals" means the division of hearings and appeals in the department of administration.
  - (3) "Secretary" means the secretary of transportation.
- History:** 1977 c. 29; 1993 a. 16.

**114.002 Definitions.** As used in this chapter, unless the context otherwise requires:

- (1) "Aeronautics" means the science and art of aircraft flight and including but not limited to transportation by aircraft; the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.
- (2) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics; but excludes any instructor in a public school, university or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, only in the performance of his or her duties at such school, university or institution.
- (3) "Aircraft" means any contrivance invented, used, or designed for navigation of or flight in the air, but does not include spacecraft.
- (5) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic or member of the crew, in

the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling or repair of aircraft engines, propellers or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air-traffic control-tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by the individual.

(6) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience to the safe take-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(7) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(8) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

(9) "Air school" means any aeronautics instructor who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics; and any person who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to

aeronautics whether for or without hire or reward; but excludes any public school, or university, or institution of higher learning duly accredited and approved for carrying on collegiate work.

(10) “Amateur built aircraft” means an aircraft the major portion of which has been fabricated and assembled by a person who undertook the construction project solely for education or recreation.

(11) “Antique aircraft” means an aircraft which has a date of manufacture of 1955 or earlier and which is used solely for recreational or display purposes.

(11m) “Astronautics” means the science and art of spacecraft flight and all activities related thereto.

(12) “Dealer aircraft” means an aircraft held as business inventory for sale and used only for demonstration purposes.

(14) “Gross weight” means the gross or maximum takeoff weight for an aircraft make and model as designated by the manufacturer.

(15) “Municipality” means any county, city, town or village of this state.

(16) “Museum aircraft” means an aircraft designated under s. 114.20 (4) and which is owned or held by a museum owned or operated by an organization qualified as a tax exempt organization under section 501 of the internal revenue code.

(17) “Operation of aircraft” or “operate aircraft” means the use, navigation or piloting of aircraft in the airspace over this state or upon any airport within this state.

(18) “Person” means any individual, firm, partnership, corporation, company, association, joint stock association or body politic; and includes any trustee, receiver, assignee or other similar representative thereof.

(18m) “Public-use airport” means any of the following as provided in 49 USC 2202:

(a) Any public airport.

(b) Any privately owned reliever airport.

(c) Any privately owned airport used for public purposes and determined by the secretary of the U.S. department of transportation to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

(18r) “Spacecraft” means any contrivance invented, used, or designed for navigation or flight beyond the earth’s atmosphere, including rockets, missiles, capsules, modules, and other vehicles, whether with or without passengers.

(18s) “Spacecraft launch or landing area” means any area used, or intended for use, for launching or landing spacecraft or for surface maneuvering, positioning, or preparation of spacecraft for imminent launching or immediately after landing, including any launch pad, landing area, or launch or landing control center.

(18t) “Spaceport” means any area of land or water that is used, or intended for use, as a spacecraft launch or landing area and any appurtenant areas that are used, or intended for use, for spaceport buildings or other spaceport facilities or rights-of-way, together with all spaceport buildings and facilities located thereon.

(19) “State airway” means a route in the navigable airspace over and above the lands or waters of this state, designated by the department as a route suitable for air navigation.

(20) “Unairworthy aircraft” means an aircraft that is in a severely damaged condition or in a state of major deterioration as determined under s. 114.20 (5).

**History:** 1971 c. 164 s. 84; 1977 c. 29 s. 1654 (5); 1981 c. 20; 1983 a. 159; 1993 a. 492; 1995 a. 113; 1999 a. 83; 2005 a. 335.

**114.01 State airport system.** The department is directed to cooperate with and assist any federal aeronautical agency in the preparation and annual revision of the national airport plan and to lay out a comprehensive state system of airports adequate to provide for the aeronautical needs of the people of all parts of the state. Such state system shall include every airport on the national system and such additional airports as may be deemed necessary.

In selecting the general location of the airports on the system and determining their capacity, due regard shall be given to aeronautical necessity as evidenced by the population of the locality to be served, its commerce and industry and such other factors as the department deems pertinent. In selecting the specific sites, due regard shall be given to general suitability for service and economy of development as evidenced by convenience of access, adequacy of available area, character of topography and soils, freedom from hazards and obstructions to flight and other pertinent consideration.

**History:** 1971 c. 164 s. 84; 1971 c. 192, 228; 1977 c. 29, 98, 272.

**114.02 Sky sovereignty.** Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States.

**114.03 Landowner’s rights skyward.** The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in s. 114.04.

**114.04 Flying and landing, limitations.** Flight in aircraft or spacecraft over the lands and waters of this state is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath. The landing of an aircraft or spacecraft on the lands or waters of another, without the person’s consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft or spacecraft or the aeronaut or astronaut shall be liable, as provided in s. 114.05.

**History:** 1993 a. 492; 2005 a. 335.

Since federal laws and regulations preempt local control of aircraft flights, s. 114.04 cannot be invoked to make unlawful flights that are in accordance with federal laws and regulations. *Luedtke v. County of Milwaukee*, 521 F.2d 387.

*Luedtke*, to the extent it holds that all common law remedies for airport noise and pollution have been preempted by federal law, is overruled. *Bieneman v. Chicago I*, 864 F.2d 463 (1988).

**114.05 Damages by aircraft or spacecraft.** The liability of the owner, lessee and pilot of every aircraft or spacecraft operating over the lands or waters of this state for injuries or damage to persons or property on the land or water beneath, caused by the ascent, descent or flight of such aircraft or spacecraft, or the dropping or falling of the aircraft or spacecraft or of any object or material therefrom, shall be determined by the law applicable to torts on land, except that there shall be a presumption of liability on the part of the owner, lessee or pilot, as the case may be, where injury or damage is caused by the dropping or falling of the aircraft or spacecraft or of any object or material therefrom, which presumption may be rebutted by proof that the injury or damage was not caused by negligence on the part of the owner, lessee or pilot and the burden of proof in such case shall be upon such owner, lessee or pilot to show absence of negligence on his or her part.

**History:** 1993 a. 492; 2005 a. 335.

**114.06 Inter-aircraft liability.** The liability of the owner of one aircraft, to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damage caused by collision on land or in the air shall be determined by the rules of law applicable to torts on land.

This section does not make rules of the road under ch. 346 applicable to airplanes. *Air Wisconsin, Inc. v. North Central Airlines, Inc.* 98 Wis. 2d 301, 296 N.W.2d 749 (1980).

**114.07 Criminal jurisdiction.** All crimes, torts and other wrongs committed by or against an aeronaut, astronaut, or passenger while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft or spacecraft while in flight over this state constitutes

a tort, crime or other wrong by or against the owner of such aircraft or spacecraft, shall be determined by the laws of this state.

**History:** 2005 a. 335.

**114.08 Contracts made in flight.** All contractual and other legal relations entered into by aeronauts or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath.

**114.09 Intoxicated and reckless flying; penalty. (1)** (a) In this subsection:

1. “Drug” has the meaning specified in s. 450.01 (10).

2. “Prohibited alcohol concentration” means an alcohol concentration of 0.04 or more if there is no passenger in the aircraft, more than 0.00 if there is a passenger in the aircraft.

(b) 1. No person may operate an aircraft in the air or on the ground or water while under the influence of intoxicating liquor or controlled substances or controlled substance analogs under ch. 961 or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely operating an aircraft, or under the combined influence of intoxicating liquor and any other drug to a degree which renders him or her incapable of safely operating an aircraft.

1m. No person may operate an aircraft in the air or on the ground if the person has a prohibited alcohol concentration.

2. No person may operate an aircraft in the air or on the ground or water in a careless or reckless manner so as to endanger the life or property of another. In determining whether the operation was careless or reckless the court shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics.

3. The court shall make a written report of all convictions, including bail or appearance money forfeitures, obtained under this section to the department, which shall send the report to the proper federal agency.

**(2)** (a) Any person violating sub. (1) (b) 1. or 1m.:

1. Shall forfeit not less than \$150 nor more than \$300, except as provided in subds. 6. and 7.

2. Except as provided in subd. 6., shall be fined not less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days nor more than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1) within a 10–year period, equals 2, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one.

3. Except as provided in subds. 6. and 7., shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1), equals 3, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one.

4. Except as provided in subds. 6. and 7., shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more than one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1), equals 4, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one.

5. Except as provided in subds. 6. and 7., is guilty of a Class H felony and shall be fined not less than \$600 and imprisoned for not less than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person’s lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1), equals 5 or more, except that suspensions,

revocations, or convictions arising out of the same incident or occurrence shall be counted as one.

6. If there was a minor passenger under 16 years of age in the aircraft at the time of the violation that gave rise to the conviction under sub. (1) (b) 1. or 1m., the applicable minimum and maximum forfeitures, fines, or imprisonment under subd. 1., 2., 3., 4., or 5. for the conviction are doubled. An offense under sub. (1) (b) 1. or 1m., that subjects a person to a penalty under subd. 3., 4., or 5. when there is a minor passenger under 16 years of age in the aircraft is a felony and the place of imprisonment shall be determined under s. 973.02.

7. a. If a person convicted had an alcohol concentration of 0.17 to 0.199, the applicable minimum and maximum fines under subd. 3. to 5. are doubled.

b. If a person convicted had an alcohol concentration of 0.20 to 0.249, the applicable minimum and maximum fines under subd. 3. to 5. are tripled.

c. If a person convicted had an alcohol concentration of 0.25 or above, the applicable minimum and maximum fines under subd. 3. to 5. are quadrupled.

(b) In par. (a) 1. to 5., the time period shall be measured from the dates of the refusals or violations that resulted in the revocation or convictions. If a person has a suspension, revocation, or conviction for any offense under a local ordinance or a state statute of another state that would be counted under s. 343.307 (1), that suspension, revocation or conviction shall count as a prior suspension, revocation, or conviction under par. (a) 1. to 5.

(bm) 1. Except as provided in subd. 1. a. or b., the court shall order the person violating sub. (1) (b) 1. or 1m. to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the person’s use of alcohol, controlled substances, or controlled substance analogs and development of an airman safety plan for the person. The court shall notify the person, the department, and the proper federal agency of the assessment order. The assessment order shall:

a. If the person is a resident, refer the person to an approved public treatment facility in the county in which the person resides. The facility named in the order may provide for assessment of the person in another approved public treatment facility. The order shall provide that, if the person is temporarily residing in another state, the facility named in the order may refer the person to an appropriate treatment facility in that state for assessment and development of an airman safety plan for the person satisfying the requirements of that state.

b. If the person is a nonresident, refer the person to an approved public treatment facility in this state. The order shall provide that the facility named in the order may refer the person to an appropriate treatment facility in the state in which the person resides for assessment and development of an airman safety plan for the person satisfying the requirements of that state.

c. Require a person who is referred to a treatment facility in another state under subd. 1. a. or b. to furnish the department written verification of his or her compliance from the agency that administers the assessment and airman safety plan program. The person shall provide initial verification of compliance within 60 days after the date of his or her conviction. The requirement to furnish verification of compliance may be satisfied by receipt by the department of such verification from the agency that administers the assessment and airman safety plan program.

2. The department of health services shall establish standards for assessment procedures and the airman safety plan programs by rule. The department of health services shall establish by rule conflict of interest guidelines for providers.

3. Prior to developing a plan that specifies treatment, the facility shall make a finding that treatment is necessary and appropriate services are available. The facility shall submit a report of the assessment and the airman safety plan within 14 days to the county department under s. 51.42, the plan provider, the depart-

ment of transportation, the appropriate federal agency, and the person, except that, upon request by the facility and the person, the county department may extend the period for assessment for not more than 20 additional workdays. The county department shall notify the department of transportation regarding any such extension.

4. The assessment report shall order compliance with an airman safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The safety plan may include a component that makes the person aware of the effect of his or her offense on a victim and a victim's family. The safety plan may include treatment for the person's misuse, abuse, or dependence on alcohol, controlled substances, or controlled substance analogs. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. An airman safety plan under this paragraph shall include a termination date consistent with the plan that shall not extend beyond one year. The county department under s. 51.42 shall assure notification of the department of transportation and the person of the person's compliance or noncompliance with assessment and treatment.

(c) Any person violating sub. (1) (b) 2.:

1. May be required to forfeit not less than \$25 nor more than \$200, except as provided in subd. 2.

2. May be fined not less than \$50 nor more than \$500 or imprisoned for not more than one year in the county jail or both if the total of convictions under sub. (1) (b) 2. equals 2 or more in a 4-year period. The 4-year period shall be measured from the dates of the violations that resulted in the convictions.

**History:** 1971 c. 192, 219, 307; 1977 c. 29 s. 1654 (5); 1983 a. 459; 1985 a. 146 s. 8; 1995 a. 448; 2007 a. 20 ss. 2665g to 2665r, 9121 (6) (a).

**114.095 Dropping objects prohibited.** No operator of an aircraft and no passenger therein shall drop any object therefrom except loose water or loose sand ballast; provided, however, that this section shall not prohibit the dusting or spraying of vegetation with insecticides dropped from airplanes, or the sowing of seeds, or the depositing of fish in lakes or streams, or the delivery of packages or mail by dropping from airplanes, or other similar practices, when such is done in accordance with the federal regulations applicable thereto.

**114.10 Killing birds or animals.** Any person who, while in flight within this state, intentionally kills or attempts to kill any birds or animals or who shoots at any bird or animal from an aircraft is subject to the penalties provided under s. 29.971 (7).

**History:** 1981 c. 243; 1997 a. 248.

**114.103 Private security personnel; report to a law enforcement authority.** (1) In this section:

(a) "Controlled substance" has the meaning given in s. 961.01 (4).

(am) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

(b) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(c) "Private security person" has the meaning given in s. 440.26 (1m) (h), but does not include any law enforcement officer.

(2) (a) If any private security person acting in the course of his or her employment at an airport believes, on the basis of personal observation, that someone possesses a controlled substance or a controlled substance analog, without a prescription or an authorization for that possession, or possesses \$10,000 or more in cash or that a shipment contains a controlled substance or controlled substance analog or \$10,000 or more in cash, the private security person shall report, as soon as practicable and by telephone or in person, to the county sheriff's office or the police department of the municipality in which the airport is located.

(b) A report under par. (a) shall contain all of the following information, unless the information is unobtainable by the person making the report:

1. The name, business address and business telephone number of the person submitting the report.

2. The name, address and telephone number of any person who is the subject of the report.

3. The date, time and location of the conduct or shipment that is the subject of the report.

4. A description of the conduct or shipment being reported, including personal observations and all other factors leading to the reporter's conclusion that the conduct or shipment has occurred.

(3) Any private security person who violates sub. (2) may be fined not more than \$500 or imprisoned for not more than 30 days or both.

**History:** 1991 a. 269; 1995 a. 448, 461.

**114.105 Local regulation.** Any county, town, city or village may adopt any ordinance in strict conformity with the provisions of this chapter and impose the same penalty for violation of any of its provisions except that such ordinance shall not provide for the suspension or revocation of pilot or aircraft licenses or certificates and shall not provide for imprisonment except for failure to pay any fine which may be imposed. No local authority shall enact any ordinance governing aircraft or aeronautics or spacecraft or aeronautics contrary to or inconsistent with the provisions of this chapter or federal law. Every court in which a violation of such ordinance is prosecuted shall make a written report of any conviction (including bail or appearance money forfeiture) to the federal aviation administration.

**History:** 1983 a. 151; 2005 a. 335.

**114.11 Local airports and spaceports; interstate reciprocity.** (1) The governing body of any county, city, village or town in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain and operate airports or landing fields or landing and take-off strips for the use of airplanes and other aircraft, or spaceports or spacecraft launch or landing areas, either within or without the limits of such counties, cities, villages and towns, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such county, city, village or town, and may regulate the same, provided, such regulation shall not be in conflict with such rules and regulations as may be made by the federal government. The governing body of each and every county and municipality owning an airport or landing field or landing and take-off strip, or spaceport or spacecraft launch or landing area, in the state of Wisconsin shall cause the surroundings of such airport, landing field or landing and take-off strip, or spaceport or spacecraft launch or landing area, to be marked for aeronautical or astronomical purposes, and maintain such marking, subject to and in accordance with law and such rules and regulations as may from time to time be made by the federal government and in so doing may cooperate with other states and subdivisions thereof and acquire rights and easements in property outside of the state.

(2) The governing body of any county, city, village or town of this state is authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain and operate airports or landing fields or landing and take-off strips or other aeronautical facilities, or spaceports or spacecraft launch or landing areas or other astronomical facilities, in an adjoining state whose laws permit, subject to the laws of such state, but subject to the laws of this state in all matters relating to financing such aeronautical or astronomical project.

(3) The governing body of any municipality or other political subdivision of an adjoining state whose laws permit, is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain and operate airports, or landing fields, or landing and take-off strips or other aeronautical facilities, or spaceports or spacecraft launch or landing areas or other astronomical facilities, in this state, subject to all laws, rules and regulations of this state applicable to its municipalities or other political subdivisions in such aeronautical or astronomical project, but

subject to the laws of its own state in all matters relating to financing such project. Such municipality or other political subdivision of an adjoining state shall have all privileges, rights and duties of like municipalities or other political subdivisions of this state, including the right to exercise the right of eminent domain. This subsection shall not apply unless the laws of such adjoining state shall permit municipalities or other political subdivisions of this state to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate and otherwise control such airport, landing field or landing and take-off strips or other aeronautical facilities, or spaceports or spacecraft launch or landing areas or other astronomical facilities, therein with all privileges, rights and duties applicable to the municipalities or other political subdivisions of such adjoining state in such aeronautical or astronomical projects.

(4) The governing body of any county, city, village or town is authorized to appropriate money to any town, city, village or other county, for the operation, improvement or acquisition of an airport or spaceport by such town, city, village or other county or any combination of such municipalities.

(5) The governing body of any county, city, village or town in this state may, together with any municipality or other political subdivision of an adjoining state if, under the laws of that state, such municipality or other political subdivision is similarly authorized, jointly sponsor an airport or spaceport project located in this state or in the adjoining state.

(a) If the project is located in this state, the secretary of transportation shall act as agent on behalf of the joint sponsors. If the project is located in the adjoining state, the proper public official or agency of that state shall act as agent on behalf of the joint sponsors.

(b) All matters relating to financing of the joint project shall be governed by the laws of the jurisdiction which furnishes the specific moneys. All other matters relating to the joint project shall be governed by the laws of the state in which the project is located.

**History:** 1973 c. 148; 2005 a. 335.

**114.12 Condemnation of lands for airports and spaceports.** Any lands acquired, owned, controlled or occupied by such counties, cities, villages and towns for the purposes enumerated in s. 114.11 shall and are hereby declared to be acquired, owned, controlled and occupied for a public purpose, and as a matter of public necessity, and such cities, villages, towns or counties shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public necessity including property owned by other municipal corporations and political subdivisions and including any street, highway, park, parkway or alley, provided that no state trunk highway shall be so acquired without the prior consent of the department. Whenever the county, city, village or town as the case may be shall own all land or access rights on both sides of such street, highway, park, parkway or alley, it may, within the limits where it has ownership or access rights on both sides, notwithstanding any other provisions of law, vacate and close such public way by resolution of the governing body of the county, city, village or town acquiring it and no damages shall be assessed against such county, city, village or town by reason of such closing, except as may be allowed in a particular condemnation action where the lands or rights in lands necessary for such airport or spaceport are so acquired. If such closing shall leave any part of such street, highway, parkway or alley without access to another public street or highway, the county, town, city or village effecting such closing shall immediately provide such access at its expense.

**History:** 1977 c. 29 s. 1654 (8) (a); 2005 a. 335.

**114.13 Purchase of land for airports and spaceports.** Private property needed by a county, city, village or town for an airport or landing field or landing and take-off strip, or for a spaceport or spacecraft launch or landing area, or property or rights for the protection of the aerial approaches thereof, shall be acquired

by purchase if the city, village, town or county is able to agree with the owners on the terms thereof, and otherwise by condemnation, as provided in s. 32.05. The purchase price or award for real property acquired for an airport or landing field or landing and take-off strip, or for a spaceport or spacecraft launch or landing area, or property or rights for the protection of the aerial approaches thereof, may be paid for the appropriation of moneys available therefor, or wholly or partly from the proceeds of the sale of bonds of the city, village, town or county, as the governing body of such city, village, town or county determines, subject to ch. 67. Such property or rights may be acquired by gift, which the respective governing bodies are authorized to accept.

**Cross-reference:** See also ch. Trans 54, Wis. adm. code.

**History:** 2005 a. 335.

**114.134 Airport and spaceport standards and approval.** (1) PUBLIC AIRPORT AND SPACEPORT INFORMATION. No person shall operate an airport or spaceport within this state that is open to the general public unless effective runway and landing strip lengths are properly reported, published and marked in accordance with applicable federal aviation regulations and federal obstruction standards.

(2) TRAVERSE WAY CLEARANCE. No person shall operate an airport or spaceport within this state unless all runways and landing strips are so located that approaching and departing aircraft or spacecraft clear all public roads, highways, railroads, waterways or other traverse ways by a height which complies with applicable federal standards.

(3) AIRPORT AND SPACEPORT SITE APPROVAL. No person shall construct or otherwise establish a new airport or spaceport or activate an airport or spaceport within this state unless the secretary of transportation issues a certificate of approval for the location of the proposed airport or spaceport. No charge shall be made for application or approval. The secretary may issue a certificate of approval if the secretary determines that the location of the proposed airport or spaceport is compatible with existing and planned transportation facilities in the area.

(4) PUBLIC HEARINGS, NOTICE AND REVIEW. (a) The secretary may hold a public hearing before the issuance of a certificate of approval.

(b) The secretary shall grant a hearing at the request of any applicant after any refusal to issue a certificate. Upon receipt of a request for hearing, the matter shall be referred to the division of hearings and appeals which shall hear and decide the matter.

(c) At least 15 days before the date of the hearing a class 1 notice of any public hearing shall be published, under ch. 985, in the official state newspaper and in a paper of general circulation printed and published near the location of the proposed airport or spaceport.

(d) Any order or decision of the secretary or division of hearings and appeals is subject to review under ch. 227.

(5) PENALTY. Each day on which any person violates any provision of this section shall be considered a separate violation in determining penalties under s. 114.27.

**History:** 1973 c. 242; 1977 c. 29; 1981 c. 347 s. 80 (2); 1993 a. 16, 492; 2005 a. 335.

**Cross-reference:** See also ch. Trans 57, Wis. adm. code.

**114.135 Airport and spaceport protection.** It is declared to be in the public interest that the navigable airspace over the state and the aerial approaches to any airport or spaceport be maintained in a condition best suited for the safe operation of aircraft or spacecraft and to that end the bulk, height, location and use of any building or structure, or any other object, and the use of land, may be regulated, or any building, structure or other object may be removed. It is the legislative intent that this section shall not supersede s. 59.69 (4), but that it shall be supplemental to such section.

(1) PROCEDURE TO OBTAIN PROTECTION PRIVILEGES. The aerial approaches to any airport or spaceport owned and operated by corporations organized to provide aeronautic or astronautic facilities

to the general public may be protected in the following manner: The owner of the airport or spaceport shall prepare and record with the register of deeds plans and specifications showing the land affected, the owner of each parcel or interest therein, whether public or private, the regulations to be imposed on each parcel and the structures, buildings or other objects to be removed. The owner or managing body of the airport or spaceport may negotiate and acquire from the owners of the various parcels or interest therein, whether public or private, by deeds the protection privileges shown by the plans and specifications. Referring in the deed to the plans and specifications, and briefly describing the plans and specifications, shall be considered sufficient legal description to convey the protection privileges set forth in the plans and specifications in the property of the grantor. In case the owner of the airport or spaceport is unable to obtain by negotiation the desired protection privileges, he or she may acquire the protection privileges by eminent domain in the manner set forth in ch. 32, except as to lands and buildings of railway companies that are necessary to, or are used in connection with the operation of the railway. In case the protection privileges sought extend into more than one county the plans and specifications shall be recorded with the register of deeds of each county. In case any parcel of land lies in more than one county, eminent domain proceedings may be instituted in the circuit court of any county in which the parcel is situated, provided a certified copy of the final judgment with a description of the property involved is recorded with the register of deeds of all counties in which the parcel of land or interest therein lies.

**(2) NOTICE: CLAIM FOR DAMAGES.** In case of any airport landing field or landing and take-off strip, or spaceport or spacecraft launch or landing area, owned by any city, village, town, or county or any union of them, the commission or other body in charge of the operation and control of the airport, landing field or landing and take-off strip, or spaceport or spacecraft launch or landing area, may prepare and record without charge with the register of deeds plans and specifications showing the protection privileges sought as described in sub. (1). The commission or other body in charge shall send by registered mail with return receipt to each owner at his or her last-known address a notice stating that the plans and specifications have been recorded with the register of deeds' office, stating the county, time of recording, the record number, and a brief description of the parcel of land or interest therein affected. If the address of the owner cannot be ascertained or the registered letter is returned unclaimed, notice shall be sent by registered mail to the person in possession of the premises. If no person is in possession, then the notice shall be posted in a conspicuous place on the land involved and published as a class 3 notice, under ch. 985, in the area affected. The right of the owner to claim for damages for the protection regulations imposed in the plans and specifications, or the removal of obstructions shall be forever barred, unless the owner files a claim for damages with the commission or other body in charge within 6 months from the receipt of the notice from the commission, or other body in charge, or the posting and last publication. The claim shall be verified and shall state the amount of damages claimed. The commission or other body in charge may pay the damages, if it has available funds, and the payment shall operate as a conveyance. If no claims for payment are filed or if payment is made, the commission or other body in charge shall file an affidavit for each parcel involved setting forth the rights acquired which shall be recorded by the register of deeds without charge and when so recorded has the same effect as any recorded instrument. If any owner is a minor or is adjudicated incompetent, the notice may be sent by registered mail to the owner's guardian, if he or she has one, and if there is none the circuit court of the county in which the land, or a larger part, is located shall upon application of the commission or other body in charge appoint a guardian to receive the notice, and to protect the rights of the owner. Any funds payable to the owner shall be cared for in the manner provided in ch. 54. If the commission or other body in charge determines that the damages claimed are

excessive, it shall so report to the governing body that established the airport, landing field or landing and take-off strip, or spaceport or spacecraft launch or landing area, in question and with its consent may acquire in the name of the governmental body the protection privilege desired in the manner set forth in sub. (1) or it may deposit with the county clerk an award and notify the owner of the land involved in the method specified in this subsection. The landowner may accept the award without prejudice to his or her right to claim and contest for a greater sum. The landowner may, within a period of 6 months after notice of the award, proceed as provided in ch. 32 to have the damages appraised.

**(3) EXERCISE OF POWER AND AUTHORITY.** The power and authority to protect airports or spaceports conferred in subs. (1) and (2) may be exercised from time to time; amended plans and specifications may be recorded in the register of deeds' office, and new protection privileges acquired from time to time in the methods provided by this section.

**(4) ENCROACHMENTS.** The duty to prevent encroachments by growth of trees or other vegetation, or otherwise, upon the protection privileges acquired by any airport, landing field, landing and take-off strip, or spaceport or spacecraft launch or landing area, shall be upon the owner or owners of the parcel of land affected by the protection privilege only in cases where the owner or owners have received compensation for the protection privilege. Any such encroachment is declared to be a private nuisance and may be abated in the manner prescribed in ch. 823. In cases where no compensation has been paid for the protection privilege, encroachments shall be removed by the owner or the authority in charge of the airport, landing field, or landing and take-off strip, or spaceport or spacecraft launch or landing area, and shall be, in case of a publicly owned airport, landing field or landing and take-off strip, or spaceport or spacecraft launch or landing area, a city, village, town or county charge as the case may be. In removing such encroachments, the owner or authority in charge of the airport, landing field or landing and take-off strip, or spaceport or spacecraft launch or landing area, in question, may go upon the land and remove the encroachment without being liable for damages in so doing.

**(5) ENCROACHMENTS A PRIVATE NUISANCE.** It shall be unlawful for any one to build, create, cause to be built or created, any object, plant, or cause to be planted, any tree or trees or other vegetation, which shall encroach upon any acquired protection privilege. In addition to the penalty set forth in s. 114.27, such encroachment is declared to be a private nuisance and may be removed in the manner prescribed in ch. 823.

**(6) PERMIT FOR ERECTION OF HIGH STRUCTURES REQUIRED.** No person shall erect anywhere in this state, including within a spaceport or spacecraft launch or landing area, any building, structure, tower or any other object the height of which exceeds the limitations set forth in sub. (7) without first filing an application and procuring a permit from the secretary of transportation.

**(7) POWER TO CONTROL ERECTION OF HIGH STRUCTURES.** For the purposes of sub. (6) the power and authority to control the erection of buildings, structures, towers and other objects by the secretary of transportation shall be limited to those objects that would either extend to a height of more than 500 feet above the ground or surface of the water within one mile of the location of the object, or above a height determined by the ratio of one foot vertical to 40 feet horizontal measured from the nearest boundary of the nearest public airport or spaceport within the state; however, this power and authority shall not extend to objects of less than 150 feet in height above the ground or water level at the location of the object or to objects located within areas zoned under s. 114.136 or to objects located within areas zoned under s. 62.23 (7) where the zoning ordinance enacted under said subsection controls the height of structures.

**Cross-reference:** See also ch. Trans 56, Wis. adm. code.

**(8) RULES, REGULATIONS, STANDARDS AND CRITERIA.** In carrying out sub. (6) the secretary of transportation may perform such

acts, issue and amend such orders and make, promulgate and amend and enforce such reasonable rules, regulations and procedures and establish such minimum standards and criteria governing erection of buildings, structures, towers and hazards in the interest of the safe operation of aircraft and spacecraft as it deems necessary in the public interest and safety.

**(9) CONFLICTING AUTHORITY.** Wherein conflicting jurisdiction arises over the control of the erection of a building, structure, tower or hazard between the secretary of transportation and any political subdivision of the state, the secretary of transportation may overrule rules and regulations adopted by any political subdivision under the laws of this state after a public hearing wherein all parties thereto have been given an opportunity to be heard. The secretary may refer such matters to the division of hearings and appeals which shall hear and decide the matter after notice and hearing.

**(10) VIOLATIONS AND PENALTIES.** Each day that any person violates any of the provisions of subs. (6), (7), (8) and (9) may be considered as a separate violation in determining penalties under s. 114.27.

**History:** 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1977 c. 29, 449; 1979 c. 32; 1981 c. 347; 1993 a. 16, 301; 1995 a. 201; 2005 a. 335, 387; 2007 a. 97.

The 500 feet in sub. (7) is to be measured from the lowest point within one mile from the base of the tower. The commission [now secretary of transportation] may hold a hearing on whether to issue a permit for a tower even though an application is not made or is withdrawn. *State v. Chippewa Cable Co.* 48 Wis. 2d 341, 180 N.W.2d 714 (1970).

The jurisdiction of the secretary of transportation with respect to control over the erection of high structures is limited by the provisions contained in sub. (7) to those structures that either extend to a height of more than 500 feet above the ground or surface of the water within one mile of the location of the object, or a height determined by the ratio of one foot vertical to 40 feet horizontal measured from the nearest boundary of the nearest public airport in the state. If a local zoning ordinance, rule or regulation permits the erection of structures, which exceed these heights, a conflict of jurisdiction would arise and the secretary could invoke sub. (9) to resolve the conflict. 62 Atty. Gen. 232.

### 114.136 Airport and spaceport approach protection.

**(1) POWERS OF MUNICIPALITIES.** (a) Any county, city, village or town that is the owner of a site for an airport or spaceport which has been approved for such purpose by the appropriate agencies of the state and the federal government may protect the aerial approaches to such site by ordinance regulating, restricting and determining the use, location, height, number of stories and size of buildings and structures and objects of natural growth in the vicinity of such site and may divide the territory to be protected into several areas and impose different regulations and restrictions with respect to each area. The provisions of such ordinance shall be effective whether the site and the lands affected by such ordinance are located within or without the limits of such county, city, village or town, and whether or not such buildings, structures and objects of natural growth are in existence on the effective date of the ordinance. Such regulations, restrictions and determinations are declared to be for the purpose of promoting the public safety, welfare and convenience, and may be adopted, enforced and administered without the consent of any other governing body. Any ordinance adopted under this section may be amended from time to time in the same manner as is provided for the adoption of the original ordinance in sub. (2). The authority granted in this section shall be independent and exclusive of any other authority granted in the statutes.

(b) When an airport or spaceport site is owned jointly by 2 or more units of government, such ordinance may be adopted by joint action of the governing bodies of such units. In such case, such governing bodies shall meet jointly to select a joint commission consisting of one member from each governing body selected by that governing body and, if there be 2, the members so selected shall elect a third member. Such joint commission shall elect a chairperson and a secretary, and shall have authority to formulate a tentative ordinance and hold public hearings as provided in sub. (2). At least 15 days written notice of the meeting to select a joint commission shall be given to each governing body by filing a copy of such written notice with the clerk thereof. Such notice

may be given on the initiative of one such governing body or jointly by more than one. The governing bodies that attend such meeting may proceed jointly. If one attends, or if only one favors an ordinance, it may proceed alone without appointing a commission, but no ordinance applicable to a jointly owned airport or spaceport shall be adopted by a governing body acting alone unless it has given notice of meeting to select a joint commission as provided by this subsection, and such ordinance shall be as effective as if adopted by the joint bodies.

(c) As an alternative to the procedure for the appointment of members of the joint commission provided in par. (b), the governing bodies of the units of government which jointly own an airport or spaceport site may by separate resolution of each governing body designate an existing subunit of any one of the governing bodies to act as the joint commission. In such case, the designated subunit shall elect a chairperson and secretary, formulate a tentative ordinance and hold public hearings as provided in sub. (2). No tentative ordinance formulated under this paragraph is effective unless it is adopted by all of the governing bodies of the units of government which jointly own the airport or spaceport site.

(d) An ordinance adopted under par. (b) or (c) may be amended in the same manner as is provided for the adoption of the original ordinance in par. (b) or (c).

**(2) FORMULATION OF ORDINANCE, PUBLIC HEARING.** (a) Except as provided by sub. (1) (b) or (c), the county park commission in the case of any county except any county with a county executive or county administrator in which case the county park manager, the city or village plan commission in the case of a city or village, or if there is no such commission or manager, a committee of the governing body or bodies of the county, city, village or town which owns the airport or spaceport site shall formulate a tentative ordinance and hold a public hearing or hearings thereon in some public place within the county, city, village or town. Notice of the hearings shall be given by publication of a class 3 notice, under ch. 985, in the area affected by the proposed ordinance.

(b) 1. The regulations, restrictions and determinations shall include, among other things, provisions for the limitation of the height of buildings, structures and objects of natural growth located not more than 3 miles from the boundaries of the airport site or located not more than 5 miles from the boundaries of the spaceport site. Such regulations, restrictions and determinations shall specify the maximum permissible height of buildings, structures and objects of natural growth and may specify such maximum permissible height as a ratio between the permissible maximum height of the building, structure or object of natural growth above the level of the airport or spaceport site and its distance from the nearest point on the boundary of the airport or spaceport site.

2. For the purposes of this section, buildings, structures and objects of natural growth shall not be restricted to a height above the level of the airport site which is less than one-thirtieth of its distance from the boundary of the airport site in the case of class I and II airports as classified by the civil aeronautics administration of the United States department of commerce and one-fiftieth of its distance from the boundary of the airport in the case of class III and larger airports as classified by said administration. Provided, however, that a building, structure, or object of natural growth within 3 miles of the airport site may be restricted to a height of 150 feet above the airport level, which is defined as the lowest point planned on any runway.

(c) Should a greater restriction be deemed necessary for the proper protection of any part of the area affected, such greater restriction shall be secured by purchase or by the exercise of the right of eminent domain in the manner provided by ch. 32.

(d) The height restrictions shall not apply to legal fences or to farm crops which are cut at least once each year.

**(3) NONCONFORMING USES.** The lawful use of land, buildings and structures existing at the time of the adoption or amendment of any ordinance under the authority of this section may be continued, although such use does not conform with the provisions of the

ordinance. The expansion or enlargement of a nonconforming use shall be in conformity with the ordinance. The governing body of the owner of the airport or spaceport site may remove such nonconforming use or acquire the necessary air right over the same by purchase or exercise of the right of eminent domain in the manner provided by ch. 32.

**(4) BOARD OF APPEALS.** (a) Any ordinance enacted under this section shall provide for a board of appeals. If the county, city, village or town which is the owner of the airport or spaceport has enacted a zoning ordinance under provision of law other than this section, the board of adjustment or board of appeals set up by that ordinance shall also function as the board of appeals under the ordinance enacted under this section.

(b) If there is no such board of appeals or board of adjustment, any regulations adopted under this section shall provide for a board of appeals. Where the airport or spaceport is owned jointly, the ordinance shall provide for a joint board of appeals. Such board shall be constituted and have all the powers, duties and functions as provided in s. 62.23 (7) (e), but not more than 2 members of such board shall be owners or occupants of the area affected by the ordinance.

**(5) ENFORCEMENT.** The governing body of the county, city, village or town owning the airport or spaceport site may provide for the enforcement of any ordinance or regulations enacted pursuant to this section. Such enforcement may be by a system of permits or any other appropriate method. The governing body enacting the ordinance may provide for the punishment of a violation of the ordinance by fine or imprisonment, or both.

**History:** 1979 c. 221; 1985 a. 29; 1993 a. 184, 246; 2005 a. 335.

This section is a limited grant of power to carry out a valid state police power to promote public safety along airport approaches. It does not violate the "one man, one vote" principle. *Schmidt v. City of Kenosha*, 214 Wis. 2d 527, 571 N.W.2d 892 (Ct. App. 1997), 96–2380.

The authority to regulate use and location of structures within the vicinity of airports is broad enough to encompass a restriction limiting individual residential units to a minimum of one acre. The restriction does not violate equal protection. *Northwest Properties v. Outagamie County*, 223 Wis. 2d 483, 589 N.W.2d 683 (Ct. App. 1998), 97–3653.

**114.14 Equipment, control of airport; expense; regulations.** **(1)** The governing body of a city, village, town or county which has established an airport or landing field, or landing and take-off strip, and acquired, leased or set apart real property for such purpose may construct, improve, equip, maintain and operate the same, or may vest jurisdiction for the construction, improvement, equipment, maintenance and operation thereof in any suitable officer, board or body of such city, village, town or county. The expenses of such construction, improvement, equipment, maintenance and operation shall be a city, village, town or county charge as the case may be. The governing body of a city, village, town or county may adopt regulations, and establish fees or charges for the use of such airport or landing field, or may authorize an officer, board or body of such village, city, town or county having jurisdiction to adopt such regulations and establish such fees or charges, subject however to the approval of such governing body before they shall take effect.

**(2)** (a) The governing body of a city, village, town or county which has established an airport may vest jurisdiction for the construction, improvement, equipment, maintenance and operation of the airport in an airport commission. The governing body of such a city, village, town or county may determine the number of commissioners on the commission. The commissioners shall be persons especially interested in aeronautics. In the case of a county, the commissioners shall be appointed by the chairperson of the county board, subject to the approval of the county board; in the case of cities, villages and towns by the mayors or city managers, village presidents and town chairpersons, respectively.

(b) The terms of the commissioners shall be determined by the governing body.

(c) The commissioners' compensation and allowance for expenses shall be fixed by the governing body.

(d) The airport commission shall elect one member chairperson and one secretary who shall keep an accurate record of all its proceedings and transactions and report those proceedings and transactions to the governing body.

(e) The commission shall have complete and exclusive control and management over the airport for which it has been appointed.

(f) All moneys appropriated for the construction, improvement, equipment, maintenance or operation of an airport, managed as provided by this subsection, or earned by the airport or made available for its construction, improvement, equipment, maintenance or operation in any manner whatsoever, shall be deposited with the treasurer of the city, village, town or county where it shall be kept in a special fund and paid out only on order of the airport commission, drawn and signed by the secretary and countersigned by the chairperson.

(g) In case of union airports owned by 2 or more governmental units, each governmental unit shall appoint an equal number of commissioners to serve for terms that are determined by each of the governmental units that appoint the respective commissioners. The moneys available for union airports shall be kept in the manner provided in this subsection in the treasury of one of the governmental units selected by the commission, and paid out in like manner.

**(3)** (a) Except as provided in par. (b), in carrying out its duties the airport commission may do any of the following:

1. Employ a manager, who may be a member of the commission, and fix the manager's compensation.

2. Employ and fix the compensation of employees other than a manager that the commission considers necessary.

3. Make contracts or other arrangements that the commission considers necessary for the construction, improvement, equipment, maintenance or operation of the airport.

4. Contract with the United States or any agency.

5. Contract with private parties for a term not to exceed 10 years for the operation of the airport, including all necessary arrangements for the improvement, equipment and successful operation of the airport.

(b) The exercise of authority by the airport commission under par. (a) shall be subject to all of the following conditions:

1. The public may in no case be deprived of equal and uniform use of the airport.

2. No act, contract, lease or any activity of the airport commission shall be or become a binding contract on any government unit unless expressly authorized, and then only to the extent so expressly authorized.

3. No member of the commission may vote on the question of his or her selection as manager nor on any question as to his or her compensation.

**History:** 1979 c. 34; 1983 a. 192 s. 303 (1); 1993 a. 184, 492; 1995 a. 225, 405; 1997 a. 35; 1999 a. 83.

Under sub. (3) (b) 1., arbitrarily excluding members of the public, whether private or commercial, from the use of an airport constitutes depriving the public of equal and uniform use of airports. Precluding taxis without airport permits from providing prearranged services, when limousines were not required to have permits to provide the same service, conflicts with sub. (3) (b) 1. and was an invalid exercise of county authority. *County of Milwaukee v. Williams*, 2007 WI 69, 301 Wis. 2d 134, 732 N.W.2d 770, 05–2686.

This section does not provide a private right of action. *Miller Aviation v. Milwaukee County Board of Supervisors*, 273 F.3d 722 (2001).

**114.15 Appropriation, taxation for airports.** The local authorities of a city, village, town or county to which this chapter is applicable having power to appropriate money therein may annually appropriate and cause to be raised by taxation in such city, village, town or county, a sum sufficient to carry out the provisions of this chapter.

**114.151 Union airports and spaceports.** All powers conferred upon any county, city, village or town by ss. 114.11 to 114.15, relating to the acquisition, establishment, construction, ownership, control, lease, equipment, improvement, mainte-



nance, operation and regulation of airports or landing fields, or spaceports or spacecraft launch or landing areas, may be exercised by any 2 or more municipalities in the establishment, acquisition, equipment and operation of joint airports or landing fields, or spaceports or spacecraft launch or landing areas. The governing body of any county, city, village or town participating in the ownership or operation of a joint airport or spaceport as provided in this section may by resolution withdraw from such joint operation or control and may relinquish its interest in the airport or spaceport.

**History:** 2005 a. 335.

**114.16 Pilots; federal license or permit.** It shall be unlawful for any person to pilot within this state any civil aircraft, unless such person is the holder of a currently effective pilot's license or student's permit issued by the government of the United States; but this restriction shall not apply to any person operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.

**114.17 Mechanic's license, issue, presentation.** Any person repairing, adjusting, inspecting or overhauling aircraft or aircraft engines within this state shall be in possession of a mechanic's license issued to the person by the federal government, which must be presented for inspection upon demand of any passenger, peace officer of this state, or any official, manager or person in charge of any airport or landing field in this state.

**History:** 1971 c. 192; 1993 a. 492.

**114.18 Aircraft; airworthiness; federal license.** It shall be unlawful for any person to operate, pilot or navigate, or cause or authorize to be operated, piloted or navigated within this state any civil aircraft, unless such aircraft has a currently effective license issued by the government of the United States or has been duly identified by the government of the United States but this restriction shall not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft, or to a nonpassenger-carrying flight solely for inspection or test purposes authorized by the United States to be made without such license.

**114.19 Display of licenses.** The certificate of the license or permit respectively required of a pilot or a student shall be kept in the personal possession of the licensee or permittee when the licensee or permittee is operating an aircraft within this state. The certificate of the license required for an aircraft shall be carried in the aircraft at all times and shall be conspicuously posted therein in clear view of passengers. Such certificate of pilot's license, student's permit or aircraft license shall be presented for inspection upon the demand of any passenger, any peace officer of this state, any authorized official, or any official, manager or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any other person. In any criminal prosecution under any of the provisions of this chapter, a defendant who relies upon a license or permit of any kind shall have the burden of proving that he or she is properly licensed or is the possessor of a proper license or permit. The fact of nonissuance of such license or permit may be evidenced by a certificate signed by the official having power of issuance, or the official's deputy, under seal of office, stating that the official or deputy has made diligent search in the records of the official's office and that from the records it appears that no such license or permit was issued.

**History:** 1993 a. 492.

**114.195 Ultralight identification. (1)** In this section, "ultralight aircraft" means an aircraft which meets all of the following requirements:

- (a) Is used or intended to be used for manned operation in the air by a single occupant.
- (b) Is used or intended to be used for recreation or sport purposes only.

(c) Does not have any U.S. or foreign air-worthiness certificate.

(d) If unpowered weighs less than 155 pounds or if powered weighs less than 254 pounds empty weight excluding floats and safety devices which are intended for use in catastrophic situation, has a fuel capacity not exceeding 5 gallons, is not capable of more than 55 knots calibrated air speed at full power in level flight and has a power-off stall-speed which does not exceed 24 knots calibrated air speed.

(2) No person may operate an ultralight aircraft within this state unless the aircraft displays an identification number assigned by an organization, approved by the department, which issues identification numbers for ultralight aircraft. The department shall maintain a list of organizations which qualify under this subsection. Any industry registration program approved by the federal aviation administration shall be approved by the department.

(3) Any person violating sub. (2) shall be required to forfeit not more than \$500.

**History:** 1983 a. 151.

**114.20 Aircraft registration. (1) REGISTRATION REQUIRED.**

(a) Except as provided under sub. (2), all aircraft based in this state shall be registered by the owner of the aircraft with the department annually on or before November 1 or, for aircraft with a maximum gross weight of not more than 3,000 pounds that are not subject to sub. (10), biennially on or before the first November 1. Annual registration fees shall be determined in accordance with sub. (9) or (10). Biennial registration fees shall be determined in accordance with sub. (9m).

(b) Aircraft determined by the department to be based in this state shall be subject to the annual or biennial registration fees under sub. (9) or (9m). Aircraft which are determined to be not based in this state shall be exempt from the annual or biennial registration fees.

(c) An aircraft is presumed to be based in this state if it is kept in the state for a period of 30 consecutive days or for a cumulative period of 60 days in any calendar year. An aircraft is not based in this state if it is brought into the state solely for the purpose of repair, maintenance or restoration.

(2) EXCEPTIONS TO REGISTRATION REQUIREMENTS. The registration requirements under sub. (1) do not apply to aircraft based in this state that are:

- (a) Aircraft, as defined in s. 76.02 (1);
- (b) Antique aircraft registered under sub. (6);
- (d) Museum aircraft designated under sub. (4);
- (e) Unairworthy aircraft designated under sub. (5);
- (f) Amateur built aircraft registered under sub. (8); or
- (g) Ultralight aircraft as defined in s. 114.195 (1).

(3) FEES IN LIEU OF PROPERTY TAXES. Fees paid on aircraft under this section are in lieu of general property taxes.

(4) MUSEUM AIRCRAFT. Any museum desiring to designate aircraft as museum aircraft shall, on or before November 1 of each year, submit to the department an inventory of all aircraft held by the museum for display or other museum purposes. The inventory shall identify the owner of the aircraft and whether it is being held by the museum under loan or other arrangements. The aircraft designated as museum aircraft are exempt from registration under this section during the time they are owned or held by the museum for display or other museum purposes and are not flown for any purpose except to and from displays. The museum shall promptly notify the department of any additions or deletions to the annual inventory of designated museum aircraft.

(5) UNAIRWORTHY AIRCRAFT. Any person desiring to have an aircraft designated as an unairworthy aircraft may apply to the department in the manner the department prescribes. No application may be acted upon unless all information requested is supplied. Upon receipt of an application and a registration fee to be established by rule and after determining from the facts submitted and investigation that the aircraft qualifies as an unairworthy air-

craft, the department shall issue an unairworthy aircraft certificate. The certificate shall expire upon transfer of ownership or restoration. An aircraft is presumed restored if it is capable of operation. The annual or biennial registration fee is due on the date of restoration. Operation of the aircraft is conclusive evidence of restoration. A late payment charge to be established by rule shall be assessed on all applications filed later than 30 days after the date of restoration.

**(6) ANTIQUE AIRCRAFT.** Any antique aircraft may be registered upon receipt of the proper application and payment of a \$50 registration fee. The registration remains effective without payment of an additional fee while the aircraft is owned by the registrant.

**(8) AMATEUR BUILT AIRCRAFT.** Any amateur built aircraft may be registered upon receipt of the proper application and payment of a \$50 registration fee. The registration remains effective without payment of an additional fee while the aircraft is owned by the registrant.

**(9) ANNUAL REGISTRATION FEES.** Except as provided in sub. (10), the owner of an aircraft subject to the annual registration requirements under sub. (1) shall pay an annual registration fee established in accordance with the following gross weight schedule:

[Maximum gross weight in pounds]	[Annual fee]
(d) Not more than 3,500 . . . . .	\$ 70
(e) Not more than 4,000 . . . . .	95
(f) Not more than 5,000 . . . . .	135
(g) Not more than 6,000 . . . . .	190
(h) Not more than 7,000 . . . . .	240
(i) Not more than 8,000 . . . . .	300
(j) Not more than 9,000 . . . . .	375
(k) Not more than 10,000 . . . . .	525
(L) Not more than 11,000 . . . . .	690
(m) Not more than 12,500 . . . . .	940
(n) Not more than 15,000 . . . . .	1,125
(o) Not more than 20,000 . . . . .	1,310
(p) Not more than 25,000 . . . . .	1,500
(q) Not more than 30,000 . . . . .	1,690
(r) Not more than 35,000 . . . . .	1,875
(s) Not more than 40,000 . . . . .	2,190
(t) Not more than 100,000 . . . . .	2,500
(u) More than 100,000 . . . . .	3,125

**(9m) BIENNIAL REGISTRATION FEES.** Except as provided in sub. (10), the owner of an aircraft subject to the biennial registration requirements under sub. (1) shall pay a biennial registration fee established in accordance with the following gross weight schedule:

[Maximum gross weight in pounds]	[Biennial fee]
(a) Not more than 2,000 . . . . .	\$ 60
(b) Not more than 2,500 . . . . .	78
(c) Not more than 3,000 . . . . .	100

**(10) MUNICIPAL AND CIVIL AIR PATROL AIRCRAFT.** Aircraft owned and operated exclusively in the public service by this state, by any county or municipality or by the civil air patrol shall be registered annually on or before November 1, by the department upon receipt of the proper application accompanied by payment of \$5 for each aircraft.

**(11) ISSUANCE OF CERTIFICATE OF REGISTRATION; DISPLAY OF CERTIFICATE; REFUNDS.** Upon payment of a registration fee or transfer of registration fee, the department shall issue evidence of registration which shall be displayed at all times in the manner prescribed by the department. A refund may be made for aircraft registration fees paid in error as determined by the department.

**(12) INITIAL REGISTRATION.** For new aircraft, aircraft not previously registered in this state or unregistered aircraft for which annual registration is required under sub. (9), the fee for the initial

year of registration shall be computed from the date of purchase, restoration, completed construction or entry of the aircraft into this state on the basis of one-twelfth of the registration fee specified in sub. (9) multiplied by the remaining number of months in the current registration year which are not fully expired. For new aircraft, aircraft not previously registered in this state or unregistered aircraft for which biennial registration is required under sub. (9m), the fee for the initial 2-year period of registration shall be computed from the date of purchase, restoration, completed construction or entry of the aircraft into this state on the basis of one twenty-fourth of the registration fee specified in sub. (9m) multiplied by the remaining number of months in the current 2-year registration period which are not fully expired. Application for registration shall be filed within 30 days from the date of purchase, restoration, completed construction or entry of the aircraft into this state and if filed after that date an additional administrative fee of \$5 shall be charged. If the date of purchase, restoration, completed construction or entry into this state is not provided by the applicant, the full annual or biennial registration fee provided in sub. (9) or (9m) shall be charged for registering the aircraft.

**(13) LATE PAYMENT CHARGES.** (b) 1. If an annual or biennial registration fee is not paid by November 1, from November 2 to the following April 30, the department shall add a late payment charge of \$50 or 10% of the amount specified for the registration under sub. (9), (9m) or (10), whichever is greater, to the fee.

2. If an annual or biennial registration fee is not paid by the following April 30, from May 1 to October 31 or, for a biennial registration, the end of the biennial period, the department shall add a late payment charge of \$50 or 20% of the amount specified for the registration under sub. (9), (9m) or (10), whichever is greater, to the fee.

4. Late payment charges under this paragraph are not cumulative.

5. This paragraph applies after October 31, 1995.

**(14) LOST OR DESTROYED REGISTRATION CERTIFICATES.** Upon satisfactory proof of the loss or destruction of the registration certificate, the department shall issue a duplicate to the owner upon payment of a fee of \$1.50.

**(15) LIEN ON AIRCRAFT FOR FEES DUE AND OWING.** (a) In addition to all existing remedies afforded by civil and criminal law, upon complaint of the department the fees, interest and late filing charges specified in this section shall be and will continue to be a lien against the aircraft for which the fees are payable until such time as the fees, along with any accrued charges or interest, are paid.

(b) The lien against the aircraft for the original registration fee shall attach at the time the fee is first payable, the lien for all renewals of annual registration shall attach on November 1 of each year thereafter and the lien for all renewals of biennial registration shall attach on the first November of the registration period and every 2 years thereafter.

**(17) SALE OF REGISTERED AIRCRAFT.** An aircraft which is registered in this state and sold within this state shall be transferred to the name of the purchaser upon application by the purchaser and upon payment of a \$5 fee to the department. Application for transfer of registration shall be filed on the date of purchase. An additional administrative fee of \$10 shall be charged on all applications filed later than 30 days after the purchase date.

**(18) PENALTIES.** (a) Any person who fails to register an aircraft in accordance with this section shall be required to forfeit not more than \$500.

(b) Any person who sells or otherwise transfers an interest in an aircraft for which a certificate of registration is required under this section, or causes or authorizes to be operated an aircraft which that person owns in whole or in part or has a leasehold or equivalent interest and for which a certificate of registration is required by this section, without a certificate having been issued

or an application for a certificate having been filed with the department, shall be required to forfeit not more than \$500.

(c) Any person who knowingly makes a false statement in any application or in any other document required to be filed with the department or who knowingly foregoes the submission of any application, document, or any registration certificate or transfer is guilty of a Class H felony.

(d) In addition to imposing the penalty under par. (a), (b) or (c), the court shall order the offender to make application for registration or reregistration and to pay the required registration fee and any applicable late payment charges and administrative fees.

**(19) COLLECTION OF FEES.** In addition to any other remedies of law, the department may collect the fees, interest and late filing charges specified in this section in a proceeding before the division of hearings and appeals. An order of the division of hearings and appeals which specifies the amount to be paid to the department shall be of the same effect as a judgment for purposes of execution under ch. 815. The institution of a proceeding for review under s. 227.52 shall stay enforcement of the division of hearings and appeals order.

**History:** 1977 c. 29 ss. 1061, 1062, 1654 (5); 1977 c. 273; 1981 c. 20; 1981 c. 347 s. 80 (4); 1981 c. 391; 1983 a. 27, 151; 1985 a. 29 s. 3202 (51); 1985 a. 182 s. 57; 1989 a. 31, 56, 359; 1991 a. 315; 1993 a. 16; 1995 a. 113; 1997 a. 35, 283; 1999 a. 9; 2001 a. 109.

**114.27 Penalty.** Except as provided in ss. 114.103 and 114.40, any person failing to comply with the requirements or violating any of the provisions of this chapter shall be fined not more than \$500 or imprisoned for not more than 90 days or both.

**History:** 1987 a. 225; 1991 a. 269.

**114.31 Powers and duties of the secretary of transportation. (1) GENERAL.** The secretary shall have general supervision of aeronautics in the state and promote and foster a sound development of aviation in this state, promote aviation education and training programs, assist in the development of aviation and aviation facilities, safeguard the interests of those engaged in all phases of aviation, formulate and recommend and promote reasonable regulations in the interests of safety, and coordinate state aviation activities with those of other states, the federal government, and the Wisconsin Aerospace Authority. The secretary shall have all powers that are necessary to carry out the policies of the department of transportation, including the right to require that statements made to the secretary be under oath. The secretary is especially charged with the duty of informing himself or herself regarding all federal laws that affect aeronautics and astronautics in this state, all regulations pursuant to such laws, and all pending legislation providing for a national airport system, in order that the secretary may recommend to the governor and the legislature such measures as will best enable this state to derive the maximum benefits from such legislation if and when it shall become effective. It shall be the duty of all other state boards, commissions, departments and institutions, especially the appropriate educational institutions and the Wisconsin Aerospace Authority, to cooperate with the secretary.

**(2) STUDIES, INVESTIGATIONS, AIRPORT DEVELOPMENT PLAN.** The secretary shall conduct studies and investigations with reference to the most effective development and operation of airports and all other aeronautical facilities, and issue reports of the findings of these studies and investigations. The secretary shall prepare and may modify in recognition of changing conditions an airport development plan.

**(3) AVIATION EDUCATION AND TRAINING.** (a) In cooperation with the appropriate educational institutions of the state, and jointly with them, the secretary shall formulate programs of aviation education and training, and disseminate information regarding such programs.

(b) From the appropriation under s. 20.395 (2) (ds), the department shall administer an aviation career education program to provide training and apprenticeship opportunities associated with

aviation careers for socially and economically disadvantaged youth.

**(4) COOPERATION WITH FEDERAL AERONAUTICAL OR ASTRONAUTICAL AGENCY.** The secretary shall cooperate with and assist the federal government, the political subdivisions of this state, and others engaged in aeronautics or astronautics or the promotion of aeronautics or astronautics, and shall seek to coordinate the aeronautical or astronautical activities of these bodies. To this end, the secretary is empowered to confer with or to hold joint hearings with any federal aeronautical or astronautical agency in connection with any matter arising under this chapter, relating to the sound development of aeronautics or astronautics, and to take advantage of the cooperation, services, records and facilities of such federal agencies, as fully as may be practicable, in the administration of said sections. The secretary shall furnish to the federal agencies cooperation, and the services, records and facilities of the department, insofar as may be practicable.

**(5) AIR MARKING SYSTEM.** The secretary shall cooperate with the federal government in any air marking system and weather information.

**(5m) PROMOTION OF AIR SERVICES.** In recognition of the importance of effective scheduled air service in the southeastern region of the state and the impact of that service on statewide economic development, the secretary shall, in cooperation with the appropriate airport governing bodies, promote expanded and improved air services, help provide information on available air services for potential users, develop efficient ground access to air services, monitor changes in air services and charges to passengers, and develop other programs as he or she considers advisable for the overall improvement of air services for residents of this state.

**(6) TECHNICAL SERVICES TO MUNICIPALITIES.** The secretary may, insofar as is reasonably possible, offer the engineering or other technical service of the department, to any municipality desiring them in connection with the construction, maintenance or operation or proposed construction, maintenance or operation of an airport. The secretary may assess reasonable costs for services including services performed while acting as agent for a municipality. Such assessment shall include properly allocated administrative costs. Municipalities are authorized to cooperate with the secretary in the development of aeronautics and aeronautical facilities in this state. The Wisconsin Economic Development Corporation and all agencies are authorized and directed to make available such facilities and services, and to cooperate as far as possible to promote the best interests of aeronautics of the state.

**(7) STATE AID.** The secretary shall establish, by rule, such conditions as he or she deems necessary to the grant of state aid.

**(8) PRIORITIES.** (a) On July 1 of each even-numbered year the governing body of each county, city, village or town that contemplates an airport development project in the next 6 years for which it proposes to request state or federal aid shall notify the secretary of such intention and submit such information as the secretary requires.

(b) The secretary shall establish priorities for the projects proposed under s. 114.33 (2) in relation to the overall airport development plan taking into account such factors as industrial, commercial, recreational and resources development and transportation needs.

(c) As part of the secretary's budget report, the secretary shall submit a tentative priority list of projects that the secretary recommends for state aid in the following biennium.

**(9) MAPS.** With respect to aeronautical maps distributed by the secretary pursuant to this section, the secretary shall ensure that such maps printed on and after July 20, 1985, do not display the picture of the secretary.

**History:** 1971 c. 125; 1973 c. 243 s. 82; 1977 c. 29 ss. 1063, 1654 (5); 1977 c. 273; 1979 c. 361 s. 112; 1981 c. 390 s. 252; 1983 a. 27; 1985 a. 29; 1987 a. 399; 1993 a. 492; 1995 a. 27 s. 9116 (5); 1999 a. 9; 2005 a. 335; 2011 a. 32.

**Cross-reference:** See also ch. Trans 55, Wis. adm. code.

**114.315 Review.** Orders of the secretary of transportation shall be subject to review in the manner provided in ch. 227.

**114.316 Use of department airplanes for transportation.** Acting upon its own discretion, the department may, either in the interest of furthering aeronautics or for other reasons, use airplanes owned or rented by it to transport persons and property of state institutions, departments or officials. In such instance the department may make charges therefor to such institutions or departments.

**History:** 1971 c. 125; 1977 c. 29 s. 1654 (5).

**114.32 Federal aid for airports.** (1) SECRETARY MAY ACCEPT. The secretary may cooperate with the government of the United States, and any agency or department thereof in the acquisition, construction, improvement, maintenance and operation of airports and other air navigation facilities in this state, and comply with the laws of the United States and any regulations made thereunder for the expenditure of federal moneys upon such airports and other air navigation facilities, and may enter into any contracts necessary to accomplish such purpose. The secretary may accept, receive and receipt for federal moneys and other moneys, either public or private, for and in behalf of this state or any municipality thereof, for training and education programs, for the acquisition, construction, improvement, maintenance and operation of airports and other aeronautical facilities, whether such work is to be done by the state or by such municipalities, or jointly, aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by laws of the United States and any rules or regulations made thereunder, and the secretary may act as agent of any municipality of this state or the owner of any public-use airport upon the request of such municipality or the owner of the public-use airport, in accepting, receiving and receipting for such moneys in its behalf for airports, and in contracting for the acquisition, improvement, maintenance or operation of airports financed either in whole or in part by federal moneys, and the governing body of any such municipality or the owner of the public-use airport may designate the secretary as its agent for such purposes and enter into an agreement with the secretary prescribing the terms and conditions of such agency in accordance with federal laws, rules and regulations and with this chapter. Such moneys as are paid over by the U.S. government shall be retained by the state or paid over to said municipalities or to the owners of the public-use airports under such terms and conditions as may be imposed by the U.S. government in making such grants.

(3) CONTRACTS. All contracts for the acquisition, construction, improvement, maintenance and operation of airports and other aeronautical facilities, made by the secretary of transportation either as the agent of this state or as the agent of any municipality or as the agent of the owner of a public-use airport, shall be made pursuant to the laws of this state governing the making of like contracts; provided, however, that where the acquisition, construction, improvement, maintenance and operation of any airport or landing strip and other aeronautical facilities is financed or partially financed with federal moneys, the secretary of transportation, as agent of the state or of any municipality thereof or of the owner of a public-use airport, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other state law to the contrary.

(4) DISPOSITION OF FEDERAL FUNDS. All moneys accepted for disbursement by the secretary of transportation pursuant to this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purpose for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are appropriated for the purposes for which the same were made available to be expended in accordance with federal laws and regulations and with this chapter. The secretary of transportation, whether acting for this state or as the agent of any of its municipalities or as the

agent of the owner of a public-use airport, or when requested by the U.S. government or any agency or department thereof, may disburse such moneys for the designated purposes, but this shall not preclude any other authorized method of disbursement.

(5) LOCAL PROJECTS AND FUNDS; SECRETARY'S FUNCTIONS. No county, city, village or town, whether acting singly or jointly with a county, city, village or town, shall submit to a federal aeronautical agency or department any project application requesting federal assistance, for any airport improvement, aeronautical facility or planning study, unless the project and the project application have been first approved by the secretary. No such county, city, village or town shall directly accept, receive, receipt for or disburse any funds granted by the United States for the project, but it shall designate the secretary as its agent and in its behalf to accept, receive, receipt for and disburse such funds. It shall enter into an agreement with the secretary prescribing the terms and conditions of the secretary's functions under such agency in accordance with federal laws, rules and regulations and applicable laws of this state.

**History:** 1971 c. 192; 1981 c. 390 s. 252; 1983 a. 159; 1993 a. 492.

The secretary of transportation possesses the requisite implied authority to enter into contracts with the federal government to secure federal funds to enable the department to undertake airport system planning. 60 Atty. Gen. 68. See also 60 Atty. Gen. 225.

**114.33 Initiation of airport project; sponsorship; land acquisition.** (1) Any county, city, village or town, either singly or jointly with one or more counties, cities, villages or towns, or any owner of a public-use airport desiring to sponsor an airport development project to be constructed with federal aid and state aid or with the state aid alone as provided by this chapter, may initiate such project in the manner provided by this section. The department may initiate and sponsor an airport project in the same manner as a local governing body. If the department initiates and sponsors an airport project, it shall hold a hearing in the area affected by the project. Notice of the hearing shall be given as provided in sub. (2). The department may install, operate and maintain air navigation facilities with or without federal aid and may enter into agreements with sponsors to share the maintenance and operation costs of such facilities.

(2) Such initiation shall be by a petition filed with the secretary by the governing body or bodies of the counties, cities, villages or towns or by the governing body of a public-use airport not owned by a county, city, village or town desiring to sponsor the project, or if the project is initiated and sponsored by the department by a statement by the secretary setting forth among other things that the airport project is necessary and the reason therefor; the class of the airport that it is desired to develop, the location of the project in general, and the proposed site tentatively selected; the character, extent and kind of improvement desired under the project, evidence, in the form of a transcript, that the project has received a public hearing in the area affected before adoption by the petitioners, and any other statements that the petitioners or the department may desire to make. At least 10 days' notice of the public hearing shall be given by publication of a class 1 notice, under ch. 985, in the area affected.

(3) If the project has been sponsored by a local governing body or bodies or by the governing body of a public-use airport not owned by a county, city, village or town, the secretary shall make a finding within a reasonable time after receipt of the petition. If such finding is generally favorable to the development petitioned for, the secretary shall submit the finding to the governor for approval and no finding favoring an airport development project shall be effective unless the governor's approval is endorsed thereon in writing. If the finding is approved by the governor the secretary shall notify the petitioners to that effect by filing a copy of the finding, which shall include among other things the location of the approved site, the character and extent of the improvements deemed necessary, and an approximate estimate of the costs and the amount to be paid by the sponsor. The finding shall constitute approval of the airport site so specified as a portion of the state airport system. On receipt of the finding the sponsors

shall take action at their next meeting toward providing their share of the cost and shall promptly notify the secretary. The sponsors may proceed in accordance with the finding to acquire the site and to make master development plans and project plans, and shall be entitled to receive credit therefor as provided by federal law and by this chapter. On completion and approval of the plans a revised estimate of the project costs shall be made for the purposes of the project application.

**(3m)** If the project is initiated and sponsored by the department, the secretary shall submit the statement prepared under sub. (2) to the governor for approval as provided in sub. (3). After approval by the governor, the department may proceed with the project as provided in sub. (3).

**(4)** All projects for the development of airports with federal aid shall be in compliance with federal laws. All plans and other arrangements for development of projects with state aid alone shall be subject to the approval of the secretary.

**(5)** In the case of projects to be carried out by contract, force account, or by a county highway committee in a manner similar to the applicable provisions of s. 84.06 (3), the sponsor's share of the cost of a project shall be deposited in the state treasury promptly on the request of the secretary, to be held in trust for the purposes of the project. The secretary need not request the entire share at any one time. The secretary may suspend or discontinue proceedings or construction relative to any project at any time if any sponsor fails to pay the amount properly required of it as its contribution to the project. In the case of projects or parts of projects authorized by the secretary to be performed by force account methods, the secretary may permit the sponsor to retain the sponsor's share of the cost of authorized project work provided the sponsor is to do the work. In such case the sponsor will be periodically reimbursed for the state or federal share, or both, on the basis of audited costs incurred by the sponsor.

**(6)** (a) For the purposes of carrying out this section and ss. 114.35 and 114.37, the secretary may acquire by gift, devise, purchase or condemnation any lands for establishing, protecting, laying out, enlarging, extending, constructing, reconstructing, improving and maintaining airports, or interests in lands in and about airports. After completion of the improvements, the secretary may convey as provided in this subsection lands that were acquired under this subsection, but were not necessary for the airport improvements. The conveyances may be made with reservations concerning the future use and occupation of those lands so as to protect the airports and improvements and their environs and to preserve the view, appearance, light, air and usefulness of the airports.

(b) Whenever the secretary considers it necessary to acquire any lands or interests in lands for any of the purposes described in par. (a), the secretary shall so order and in the order, or on a map or plat, show the lands and interests required. The secretary shall file a copy of the order and map with the county clerk of each county in which the lands or interests are required or, in lieu of filing a copy of the order and map, may file or record a plat in accordance with s. 84.095. For the purposes of this section the secretary may acquire private or public lands or interests therein. When so provided in the secretary's order, the land shall be acquired in fee simple. Unless the secretary elects to proceed under sub. (3), the secretary shall attempt to obtain easements or title in fee simple by conveyance of the lands or interests required at a price, including any damages, considered reasonable by the secretary. The instrument of conveyance shall name the state as grantee and shall be recorded in the office of the register of deeds. The purchase or acquisition of lands or interests in lands under this section is excepted and exempt from s. 20.914 (1).

(c) The secretary may purchase or accept donations of remnants of tracts or parcels of land existing at the time or after the secretary has acquired portions of tracts or parcels, by purchase or condemnation for airport purposes, where in the judgment of the secretary the acquisition of the tracts or parcels would assist in making whole the landowner, a part of whose lands have been

taken for airport purposes and would serve to minimize the overall cost of the taking by the public.

**(7)** If any of the needed lands or interests in lands cannot be purchased expeditiously for a price deemed reasonable by the secretary, the secretary may acquire those lands or interests as provided in s. 32.05.

**(8)** (a) The secretary, upon the petition of a sponsoring municipality, may provide that all or certain parts of the required land or interests in land may be acquired by the municipality named by the secretary. When so provided, the municipality and the secretary shall appraise and set the maximum price, including damages, considered reasonable for the lands or interests to be so acquired. The municipality shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, as directed in the secretary's order. The instrument of conveyance shall name the municipality or municipalities as grantee and shall be subject to approval by the secretary, and shall be recorded in the office of the register of deeds and filed with the secretary. If the needed lands or interests in lands cannot be purchased expeditiously within the appraised price, the municipality may acquire them by condemnation, as provided in s. 32.05.

(b) Any property of whatever nature acquired in the name of a city, village or town pursuant to this section or any predecessor shall be conveyed to the state without charge by the city, village or town when so ordered by the secretary.

(c) The municipality when so ordered by the secretary shall sell at public or private sale, subject to the conditions and terms authorized by the secretary, any and all buildings, structures, or parts thereof, and any other fixtures or personalty acquired in the name of the municipality under this section or any predecessor. The proceeds from the sale shall be deposited with the state in the appropriate airport fund and the expense incurred in connection with the sale shall be paid from that fund.

**(9)** The cost of the lands and interests acquired and damages allowed pursuant to this section, incidental expenses and the customary per diem and expenses of the municipality incurred in performing duties pursuant to this section, shall be paid out of the available airport improvement funds.

**(10)** Subject to the approval of the governor under this subsection, the secretary may sell at public or private sale property of whatever nature owned by the state and under the jurisdiction of the secretary when the secretary determines that the property is no longer necessary for the state's use for airport purposes and, if real property, the real property is not the subject of a petition under s. 16.310. The secretary shall present to the governor a full and complete report of the property to be sold, the reason for the sale, and the minimum price for which the property should be sold, together with an application for the governor's approval of the sale. The governor shall investigate the proposed sale as he or she deems necessary and approve or disapprove the application. Upon approval and receipt of the full purchase price, the secretary shall by appropriate deed or other instrument transfer the property to the purchaser. The funds derived from the sale shall be deposited in the appropriate airport fund, and the expense incurred by the secretary in connection with the sale shall be paid from that fund. This subsection does not apply to real property that is sold under s. 16.848.

**(11)** Subject to the approval of the governor, the secretary may convey lands or interests in lands acquired under this section and improvements installed on those lands to municipalities named in the secretary's order. The conveyance of the lands or interests in lands and improvements shall restrict the use of the premises by the municipality to the uses for which they were acquired, except that the lands or interests in lands declared by the secretary to be excess may be conveyed without restrictions as to use.

**(12)** Lands held by any department, board, commission, other agency of the state, or the Wisconsin Aerospace Authority may, with the approval of the governor, be conveyed to the secretary in the manner prescribed by statute and, if none is prescribed, then

by a conveyance authorized by appropriate resolution of the controlling department, board or commission of the agency concerned or by the Wisconsin Aerospace Authority.

(13) Subsections (6) to (12) do not apply to lands or interests in lands associated with projects for public-use airports which are not owned by a county, city, village or town.

**History:** 1971 c. 192; 1973 c. 241; 1977 c. 29; 1979 c. 221; 1981 c. 20 s. 2202 (51) (d); 1987 a. 27; 1991 a. 39; 1997 a. 253, 282; 1999 a. 32; 2003 a. 33; 2005 a. 335; 2007 a. 20; 2011 a. 32.

**Cross-reference:** See also ch. *Trans 54*, Wis. adm. code.

**114.34 State and sponsor's share of cost. (1)** The costs of airport improvement projects involving federal aid, in excess of the federal government's share, shall be borne by the sponsor and the state, except that the state shall pay not more than one-half of the excess costs, nor more than \$1,250,000 for the cost of a building project or building improvement project and no part of the cost of hangars. The secretary, upon agreement with the sponsor, may advance up to 10% of the amount of any federal aid grant agreement for the payment of project costs of a federal aid project from unallocated state airport funds, subject to reimbursement upon final liquidation and settlement of the project with the sponsor and federal government.

(2) The costs of projects not involving federal aid shall be borne by the sponsor and the state. The state shall pay not more than 80% of the costs, which may include the cost of the land, the cost of lands or interest in lands deemed necessary for the protection of the aerial approaches, the cost of formulating the project application and preparing the plans and specifications, and the cost of construction and of all facilities deemed necessary for the operation of the airport. The state shall not contribute more than \$1,250,000 for the cost of a building project or building improvement project and no part of the cost of hangars.

(3) The percentage of the costs borne by the state shall be determined by the department on the basis of the relative importance of the specific project to the state airport development program as a whole.

**History:** 1971 c. 164 s. 84; 1971 c. 192; 1977 c. 29 s. 1654 (5); 1977 c. 348; 1983 a. 27; 1985 a. 283; 1987 a. 27; 1993 a. 16; 2011 a. 248.

**114.35 Federal aid; state and local funds. (1)** It is declared to be the policy of the state to promote the development of an airport system in this state and to promote the development of joint airports in this state and in adjoining states which mutually benefit citizens of this state and those of adjoining states. The secretary may use the funds provided by the state to assist sponsors in matching the federal aid that may become available to the state or available for specific projects or joint projects within this state or in an adjoining state.

(2) The secretary may also use the funds provided by the state independent of the availability of federal funds to aid sponsors in the development of approved projects on the state system or joint projects; for air marking and air navigation facilities; and for the purposes of 1991 Wisconsin Act 269, section 9155 (1x).

**History:** 1971 c. 125, 192, 228; 1973 c. 148; 1977 c. 418; 1983 a. 27; 1989 a. 31; 1991 a. 39, 269.

**114.37 Advance land acquisition loan program for airport projects. (1) PURPOSE.** The purpose of this section is to promote the state's interest in preserving and improving a safe and efficient air transportation system by means of a program to provide loans for advance land acquisition for airport projects planned under s. 114.33.

(2) ADMINISTRATION. The department shall administer an advance land acquisition loan program to assist a county, city, village, town or an owner of a public-use airport in acquiring land necessary for airport projects under s. 114.33. The department shall have all powers necessary and convenient to implement this section, including the following powers:

(a) To specify conditions of eligibility for loans under this section. Such conditions shall include the requirement that the land to be acquired must be part of a planned airport improvement proj-

ect or a land acquisition project that is essential to future airport development or to the safety of aircraft using the airport.

(b) To receive applications for loans under this section and to prescribe the form, nature and extent of the information which shall be contained in applications.

(c) To establish standards for the approval of loans under this section. No loan may be made for an amount greater than 80% of the department's assessment of the value of the property.

(d) To enter into loan agreements with applicants to ensure the proper use and prompt repayment of loans under this section. The loan agreement shall include the requirements that the loan be repaid within a period not to exceed 5 years and that the proceeds of any state or federal land acquisition funding received under s. 114.33 be fully pledged to repayment of the loan. The department may not make a loan for more than 80% of the estimated land acquisition costs, including the costs of any necessary project plans and environmental studies. The loan agreement shall require that the department be designated to act as the loan recipient's agent in the acquisition of the land. Title to the land acquired shall be held by the loan recipient, but the department may retain a security interest in the land until the loan is repaid. The loan agreement shall require the payment of interest and reasonable costs incurred by the department.

(e) To acquire lands under s. 114.33 (6) and (7) as the designated agent of a loan recipient.

(f) To audit and inspect the records of loan recipients.

(3) FUNDS. The department may make loans under this section from the appropriation under s. 20.395 (2) (dv). The total outstanding balance of loans under this subsection may not exceed \$6,500,000.

(4) RULES. The department may adopt rules as necessary to implement this section.

**History:** 1981 c. 20; 1985 a. 29; 1991 a. 39; 1993 a. 16; 2005 a. 335.

**Cross-reference:** See also ch. *Trans 54*, Wis. adm. code.

**114.375 Advance land acquisition loan program for spaceport projects. (1) PURPOSE.** The purpose of this section is to promote the state's interest in aerospace programs by providing loans for advance land acquisition for spaceport projects.

(2) ADMINISTRATION. The department shall administer an advance land acquisition loan program to assist a county, city, village, town, or an owner of a spaceport in acquiring land necessary for spaceport projects. The department shall have all powers necessary and convenient to implement this section, including the following powers:

(a) To specify conditions of eligibility for loans under this section. Such conditions shall include the requirement that the land to be acquired must be part of a planned spaceport improvement project or a land acquisition project that is essential to future spaceport development or to the safety of spacecraft using the spaceport.

(b) To receive applications for loans under this section and to prescribe the form, nature, and extent of the information which shall be contained in applications.

(c) To establish standards for the approval of loans under this section. No loan may be made for an amount greater than 80 percent of the department's assessment of the value of the property.

(d) To enter into loan agreements with applicants to ensure the proper use and prompt repayment of loans under this section. The loan agreement shall include the requirements that the loan be repaid within a period not to exceed 10 years and that the proceeds of any state or federal land acquisition funding received be fully pledged to repayment of the loan. The department may not make a loan for more than 80 percent of the estimated land acquisition costs, including the costs of any necessary project plans and environmental studies. The loan agreement shall require that the department be designated to act as the loan recipient's agent in the acquisition of the land. Title to the land acquired shall be held by the loan recipient, but the department may retain a security interest

in the land until the loan is repaid. The loan agreement shall require the payment of interest and reasonable costs incurred by the department.

- (e) To acquire lands as the designated agent of a loan recipient.
- (f) To audit and inspect the records of loan recipients.

**(3) FUNDS.** The department may make loans under this section from the appropriation under s. 20.395 (2) (mv). The total outstanding balance of loans under this subsection may not exceed \$10,000,000.

**(4) RULES.** The department may adopt rules as necessary to implement this section.

**History:** 2005 a. 335.

**114.40 Disclosure of insurance coverage for renter pilots.** **(1) DEFINITION.** In this section, “rental agent” means a person who, on a regular basis and in the ordinary course of business, rents or leases an aircraft to another person.

**(2) REQUIRED DISCLOSURES.** Except as provided in sub. (2m), before entering into an agreement to rent or lease an aircraft to another person, the rental agent shall deliver to the person who seeks to rent or lease the aircraft a written notice of insurance coverage which contains all of the following information and is in substantially the following form:

#### NOTICE OF INSURANCE COVERAGE

1. If you rent or lease an aircraft from ... (name of rental agent), you (are) (are not) insured under an insurance policy held by ... (name of rental agent) for liability arising from the use or maintenance of the aircraft. If liability coverage is provided, it is in the (amount) (amounts) of \$..., and is subject to a deductible in the (amount) (amounts) of \$....

2. If you rent or lease an aircraft from .... (name of rental agent), you (are) (are not) insured under an insurance policy held by .... (name of rental agent) for damage to the hull of the aircraft. If hull insurance is provided, it is in the (amount) (amounts) of \$..., and is subject to a deductible in the (amount) (amounts) of \$....

3. If you are insured under an insurance policy held by .... (name of rental agent), you may ask the rental agent for a copy of the certificate of coverage for further information about any limitations of coverage or other terms of coverage.

4. If you are not insured under an insurance policy held by .... (name of rental agent), it is recommended that you obtain insurance for liability and damage to the hull of the aircraft which may arise from your use of the aircraft.

....(Signature of rental agent  
or representative of  
rental agent)

The undersigned acknowledges receipt of an exact copy of this notice on .... (date).

.... (Signature)

**(2m) EFFECTIVE PERIOD OF NOTICE.** If a rental agent delivers a notice under sub. (2), the rental agent is not required to deliver another notice to the person who received the notice for 12 months after the date of the notice if the notice states the period of its effectiveness.

**(3) INSPECTION OF CERTIFICATE.** If an insurance policy held by a rental agent provides insurance coverage for a person who rents or leases an aircraft from the rental agent, the rental agent shall, upon request by a person who receives the notice under sub. (2), deliver to that person a copy of the certificate of coverage which was issued to the rental agent.

**(4) RETENTION AND MATERIALITY OF NOTICE.** (a) The rental agent shall maintain a copy of the notice delivered under sub. (2) for at least 3 years from the date of the notice.

(b) The notice required under sub. (2) is a material part of an agreement between a rental agent and another person for the rental or lease of an aircraft.

**(5) CIVIL PENALTY.** Notwithstanding s. 114.27, whoever violates sub. (2) may be required to forfeit not more than \$1,000.

**History:** 1987 a. 225.

## SUBCHAPTER II

### WISCONSIN AEROSPACE AUTHORITY

**114.60 Definitions.** In this subchapter:

**(1)** “Aerospace facilities” means facilities and infrastructure in this state used primarily to provide aerospace services, including: laboratories and research facilities; office, storage, and manufacturing facilities; instructional and other educational facilities; space museums; and other buildings, equipment, and instruments related to the operations of the aerospace industry or to providing aerospace services.

**(2)** “Aerospace services” means services that promote, advance, and facilitate space exploration and space-related commercial, technological, and educational development in this state, including: space-related research, experimentation, and development of technology and other intellectual property; space-related business incubator services or services for start-up aerospace companies; programs, projects, operations, and activities to develop, enhance, or provide commercial and noncommercial space-related opportunities for business, industry, education, and government; services or activities that promote the commercialization of the space and aerospace industry and space-related economic growth; services or activities that promote and facilitate space-related educational opportunities and tourism, including educational initiatives and operation or sponsorship of space museums and tourist attractions; consulting services; and administrative services.

**(3)** “Authority” means the Wisconsin Aerospace Authority.

**(4)** “Board” means the board of directors of the authority.

**(5)** “Bond” means a bond, note, or other obligation of the authority issued under this chapter, including a refunding bond.

**(6)** “Bond resolution” means a resolution of the board authorizing the issuance of, or providing terms and conditions related to, bonds and includes, when appropriate, any trust agreement, trust indenture, indenture of mortgage, or deed of trust providing terms and conditions for the bonds.

**(7)** “Payload” means any property, cargo, or persons transported by spacecraft.

**(8)** “Recovery” means the recovery of any spacecraft or payload, or any part of any spacecraft or payload, including any apurtenance, instrument, or equipment, that has detached from a spacecraft in flight or upon launch or landing.

**(9)** “Spaceport facilities” means facilities and infrastructure that are located within a spaceport and related to the operation or purpose of the spaceport, including: spaceport launch or landing areas; launch or landing control centers or other facilities; structures, mechanisms, or devices for communicating with or navigating or tracking spacecraft; buildings, structures, equipment, or other facilities associated with spacecraft construction, development, assembly, processing, testing, or evaluation; buildings, structures, equipment, or other facilities associated with payload loading, assembly, processing, testing, or evaluation; space flight hardware, software, or instrumentation; facilities appropriate to meet the transportation, electric, gas, water and sewer, flood control, waste disposal, and other infrastructure needs within the spaceport; facilities to meet public safety needs within the spaceport, including any facility related to spaceport security and emergency services such as fire and ambulance; administrative facilities; and other buildings, equipment, and instruments related to spaceport operations or the providing of spaceport services.

**(10)** “Spaceport services” means any services provided in connection with the operation, management, or control of a spaceport or spaceport facilities, including: the launching or landing of

spacecraft; communicating with or navigating or tracking spacecraft; construction, development, assembly, processing, testing, or evaluation of spacecraft or payload; loading spacecraft payload; spaceport security and emergency services; and administrative services.

(11) “Spaceport territory” means a spaceport of the authority in this state and any additional aerospace facilities associated with the spaceport that are in the immediate vicinity of the spaceport.

(12) “Wisconsin Space Grant Consortium” means the state-wide regional consortium designated as such by the federal administrator of the National Aeronautics and Space Administration under 42 USC 2486f (a) (1) (B).

History: 2005 a. 335.

**114.61 Creation and organization.** (1) There is created a public body corporate and politic to be known as the “Wisconsin Aerospace Authority.” The board of the authority shall consist of the following members:

(a) Six members nominated by the governor, and with the advice and consent of the senate appointed, for 3-year terms.

(b) One member of the senate, appointed by the president of the senate, and one member of the assembly, appointed by the speaker of the assembly, each for a 3-year term.

(c) The director of the Wisconsin Space Grant Consortium or the director’s designee. If the Wisconsin Space Grant Consortium ceases to exist or does not appoint a director, an additional member of the board shall be appointed under par. (a) in lieu of the member under this paragraph.

(2) Except for the member specified under sub. (1) (c), each member of the board shall be a resident of the state and shall have experience in the aerospace or commercial space industry, in education, or in finance or shall have other significant experience related to the functions of the authority as specified in this subchapter.

(3) (a) The terms of the members appointed under sub. (1) (a) and (b) expire on June 30. Each member’s appointment remains in effect until a successor is appointed unless the member vacates or is removed from his or her office. A member who serves as a result of holding another office or position vacates his or her office as a member when he or she vacates the other office or position. A member who ceases to qualify for office vacates his or her office.

(b) A vacancy on the board shall be filled in the same manner as the original appointment to the board for the remainder of the unexpired term, if any.

(c) A member appointed under sub. (1) (a) may be removed by the governor for cause. A member appointed under sub. (1) (b) shall be removed, as applicable, by the president of the senate or the speaker of the assembly if the member is absent at 2 consecutive board meetings without the prior written approval of the chairperson of the board. A vacancy on the board created by removal under this paragraph is subject to par. (b).

(d) A member of the board appointed under sub. (1) (a) or (b) may not serve more than 3 consecutive 3-year terms, but may be reappointed to additional terms after a one-year absence from the board.

(e) A member of the board may hold public office or otherwise be publicly or privately employed.

(4) (a) A member of the board may not be compensated for his or her services but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the performance of his or her duties.

(b) The amount of reimbursement under par. (a) shall be limited to the uniform travel schedule amounts approved under s. 20.916 (8).

(5) No cause of action of any nature may arise against and no civil liability may be imposed upon a member of the board for any act or omission in the performance of his or her powers and duties

under this subchapter, unless the person asserting liability proves that the act or omission constitutes willful misconduct.

(6) The members of the board shall annually elect a chairperson and may elect other officers as they consider appropriate. Five members of the board constitute a quorum for the purpose of conducting the business and exercising the powers of the authority, notwithstanding the existence of any vacancy. The board may take action upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. The board shall meet at least once every 6 months, but may meet more frequently. Except as provided in s. 114.65 (4), meetings of the board are subject to the open meetings requirements specified in subch. V of ch. 19.

(7) The board shall appoint an executive director who may not be a member of the board and who shall serve at the pleasure of the board. The authority may delegate by resolution to one or more of its members or its executive director any powers and duties that it considers proper. The board shall determine the compensation of the executive director. The executive director or another person designated by resolution of the board shall keep a record of the proceedings of the authority and shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director or other person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that the copies are true copies, and all persons dealing with the authority may rely upon the certificates. The executive director may call meetings of the board more frequently than the meetings required under sub. (6).

History: 2005 a. 335; 2009 a. 124.

**114.62 Powers of authority.** The authority has all of the powers necessary or convenient to carry out the purposes and provisions of this chapter. In addition to all other powers granted by this chapter, the authority may do any of the following:

(1) Adopt bylaws and policies and procedures for the regulation of its affairs and the conduct of its business.

(2) Sue and be sued. The authority has a direct right of action against any 3rd party to enforce any provision of this subchapter or to carry out any power provided to it under this subchapter or to protect its interests as authorized under this subchapter.

(3) Have a seal and alter the seal at pleasure; have perpetual existence; and maintain an office.

(4) Hire employees, define their duties, and fix their rate of compensation and benefits. The authority may also employ any agent or special advisor that the authority finds necessary and fix his or her compensation. The amount of reimbursement to any employee, agent, or special advisor shall be limited to the uniform travel schedule amounts approved under s. 20.916 (8).

(5) Appoint any technical or professional advisory committee that the authority finds necessary to assist the authority in exercising its duties and powers; define the duties of any committee; and provide reimbursement for the expenses of any committee. The amount of reimbursement under this subsection shall be limited to the uniform travel schedule amounts approved under s. 20.916 (8).

(6) Buy, sell, lease as lessor or lessee, or otherwise acquire any interest in or dispose of any interest in property, including real property, personal property, and intangible property rights.

(7) Make and execute contracts and other legal instruments necessary or convenient for the conduct of its business or to the exercise of its powers, including: procurement contracts; lease or rental agreements; lease-purchase, purchase and sale, and option to purchase agreements; consulting agreements; loan agreements; financing agreements; security agreements; contractual services agreements; affiliation agreements; and cooperative agreements with any governmental unit or other person, including agreements



for any jointly provided service or jointly developed or operated facility.

(8) Accept gifts, bequests, contributions, and other financial assistance, in the form of money, property, or services, from any person, for the conduct of its business or for any other authorized purpose.

(9) Apply for and accept loans, grants, advances, aid, and other forms of financial assistance or funding, in the form of money, property, or services, from any person, including federal aid, for the conduct of its business or for any other authorized purpose.

(10) Acquire, own, lease, construct, develop, plan, design, establish, create, improve, enlarge, reconstruct, equip, finance, operate, manage, and maintain:

(a) Any spaceport, spaceport territory, spaceport facility, aerospace facility, or other facility or site within this state related to conducting the business or exercising the powers of the authority, including establishing a spaceport in the city of Sheboygan in Sheboygan County.

(b) Any spacecraft or other vehicle or aircraft related to conducting the business or exercising the powers of the authority.

(c) Any program or project related to conducting the business or exercising the powers of the authority.

(d) Any intangible property right, including any patent, trademark, service mark, copyright, trade secret, certification mark, or other right acquired under federal or state law, common law, or the law of any foreign country. The authority may utilize such rights for any permissible purpose under law, including licensing such rights in exchange for payment of royalties.

(11) Offer, provide, furnish, or manage, and enter into contracts related to, any service or facility of the authority.

(12) Establish and collect fees, rents, rates, tolls, and other charges and revenues in connection with any service provided by the authority or the use of any facility of the authority.

(13) Issue bonds in accordance with ss. 114.70 to 114.76 and fund any spaceport, facility, or service of the authority with bond proceeds.

(14) Borrow money or incur debt other than through bond issuance, and pledge property or revenues or provide other security for such debt.

(15) Invest funds held by the authority, including investments under s. 25.50.

(16) Procure liability insurance covering its officers, employees and agents, insurance against any loss in connection with its operations, property, and assets, and insurance on its debt obligations.

(17) Exercise the right of eminent domain in the manner provided by ch. 32.

(18) Provide for and maintain wildlife conservation areas, and prohibit or control the pollution of air and water, in any spaceport or spaceport territory, beyond what is required under state or federal law.

(19) Specify the location of any utility facilities in any spaceport or spaceport territory.

(20) Divide any spaceport or spaceport territory into zones or districts of any number or shape.

(21) Prohibit any person from using the words “WISCONSIN SPACEPORT” or “SPACEPORT WISCONSIN” in any corporate or business-related name without prior written approval of the authority.

(22) Subject to any requirement of federal law and to any duty of the department specified under this chapter, maintain exclusive jurisdiction over spaceports of the authority.

**History:** 2005 a. 335.

**114.63 Duties of authority.** The authority shall do all of the following:

(2) Promote this state’s aerospace industry; analyze trends in the aerospace industry and recommend actions to be taken by this state to compete in the global aerospace industry; and coordinate access to commercial, technical, and general aerospace information and services.

(3) Advertise and promote to the public the development and utilization of spaceport facilities, spaceport services, aerospace facilities, and aerospace services of the authority.

(4) Develop, promote, attract, and maintain space-related businesses in this state, which may include expenditures for travel, entertainment, and hospitality for business clients or guests or other authorized persons, but such expenditures shall be limited to the uniform travel schedule amounts approved under s. 20.916 (8).

(5) Provide aerospace services to the aerospace industry and general public of this state, provide commercial and noncommercial aerospace business opportunities for industry, education, and government, and develop projects within this state to foster and improve aerospace economic growth.

(6) Advise, cooperate, and coordinate with federal, state, and local governmental units, the aerospace industry, educational organizations, businesses, and the Wisconsin Space Grant Consortium, and any other person interested in the promotion of space-related industry.

(7) Furnish leadership in securing adequate funding for spaceports, spaceport facilities, spaceport services, aerospace facilities, and aerospace services in this state.

(8) Act as a central clearinghouse and source of information in this state for spaceports, spaceport facilities, spaceport services, aerospace facilities, and aerospace services, including furnishing such information to legislators, offices of government, educational institutions, and the general public.

(9) Develop a business plan to promote and facilitate spaceport-related educational and commercial development in this state, and to stimulate and improve aerospace science, design, technology, and research in this state, which plan shall include information about the authority and information and analysis about space-related industry, technology, design, manufacturing, marketing, and management. The business plan shall also include proposed funding sources for capital expenditures by the authority, based upon of a feasibility study of potential funding sources conducted by the authority. The business plan shall be developed in cooperation with the Wisconsin Space Grant Consortium.

(10) Assist any state agency, municipality, or other governmental unit, upon its request, in the development of any spaceport or spaceport facility.

(11) Use the building commission as a financial consultant to assist and coordinate the issuance of bonds under this subchapter.

(12) Comply with all applicable state and federal laws, including all environmental and aeronautics laws, in the exercise of the powers specified under this subchapter.

(13) Comply with all requirements under federal law related to the use or expenditure of federal aid, and comply with all lawful restrictions or conditions imposed by state law or by the terms of any gift, bequest, grant, loan, aid, contribution, or financial assistance relating to the use or expenditure of such funds.

(14) To the extent permitted by applicable state and federal law, attempt to involve and utilize, with respect to any facility or service provided by the authority, disadvantaged individuals, disadvantaged businesses, and minority businesses, as those terms are defined in s. 84.076 (1) (a) to (c).

(15) Establish a safety program that includes the development and implementation of a loss prevention program, safety policies, and regular and periodic facility and equipment inspections.

(16) Attempt to procure adequate liability and property insurance.

(17) Subject to s. 114.64, establish the authority's annual budget and monitor the fiscal management of the authority.

History: 2005 a. 335.

**114.64 Annual reports.** (1) The authority shall keep an accurate account of all of its activities and of all of its receipts and expenditures, and shall annually in January make a report of its activities, receipts, expenditures, and financial condition to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2). The reports shall be in a form approved by the state auditor.

(2) (a) Within 180 days after April 29, 2006, or within 60 days after the authority receives from any public or private source money sufficient to fund the cost of preparing a business plan, whichever is later, the authority shall submit to the department of administration the business plan specified under s. 114.63 (9) and an estimate of the costs of and funding for any planned projects of the authority described in s. 114.62 (10).

(b) The authority shall update and resubmit the plan under par. (a) upon the request of the department of administration.

(3) For each fiscal year in which the authority receives operating revenues, the authority shall submit to the department of administration an audited financial statement, which shall include notes that explain in detail the specific sources of funding contained in the financial statement.

History: 2005 a. 335.

**114.65 Maintenance of records.** (1) (a) Subject to rules promulgated by the department of administration under s. 16.611, the authority may transfer to or maintain in optical disk or electronic format any record in its custody and retain the record in that format only.

(b) Subject to rules promulgated by the department of administration under s. 16.611, the authority shall maintain procedures to ensure the authenticity, accuracy, reliability, and accessibility of records transferred to or maintained in optical disk or electronic format under par. (a).

(c) Subject to rules promulgated by the department of administration under s. 16.611, if the authority transfers to or maintains in optical disk or electronic format any records in its custody, the authority shall ensure that the records stored in that format are protected from unauthorized destruction.

(2) (a) Any microfilm reproduction of an original record of the authority, or a copy generated from an original record stored in optical disk or electronic format, is considered an original record if all of the following conditions are met:

1. Any device used to reproduce the record on film or to transfer the record to optical disk or electronic format and generate a copy of the record from optical disk or electronic format accurately reproduces the content of the original.

2. The reproduction is on film which complies with the minimum standards of quality for microfilm reproductions, as established by rule of the public records board, or the copy generated from optical disk or electronic format comply with the minimum standards of quality for such copies, as established by rule of the department of administration under s. 16.611.

3. The film is processed and developed in accordance with the minimum standards established by the public records board. This subdivision does not apply to a copy generated from an electronic record.

4. The record is arranged, identified, and indexed so that any individual document or component of the record can be located with the use of proper equipment.

5. The custodian of the record designated by the authority executes a statement of intent and purpose describing the record to be reproduced or transferred to optical disk or electronic format and the disposition of the original record, and executes a certificate verifying that the record was received or created and microfilmed or transferred to optical disk or electronic format in the nor-

mal course of business and files the statement in the offices of the authority.

(b) The statement of intent and purpose executed under par. (a) 5. is presumptive evidence of compliance with all conditions and standards prescribed by this subsection.

(3) (a) Any microfilm reproduction of a record of the authority meeting the requirements of sub. (2) or copy of a record of the authority generated from an original record stored in optical disk or electronic format in compliance with this section shall be taken as, stand in lieu of, and have all the effect of the original document and shall be admissible in evidence in all courts and all other tribunals or agencies, administrative or otherwise, in all cases where the original document is admissible.

(b) Any enlarged copy of a microfilm reproduction of a record of the authority made as provided by this section or any enlarged copy of a record of the authority generated from an original record stored in optical disk or electronic format in compliance with this section that is certified by the custodian as provided in s. 889.08 shall have the same force as an actual-size copy.

(4) Notwithstanding any other provision of this subchapter, the authority shall maintain the confidentiality of records or portions of records held by the authority containing any trade secret, as specified under s. 19.36 (5). Notwithstanding subch. V of ch. 19, any portion of any meeting of the authority concerning trade secrets shall be conducted in closed session and shall in all respects, including in any written record or audio or visual recording of the meeting, remain confidential.

History: 2005 a. 335.

**114.67 Cooperation with governmental units.** To enhance the efficiency and effectiveness of the authority, the state, any political subdivision of the state, municipality, or other governmental unit may enter into cooperative agreements with the authority for furnishing any facility or service of the state, political subdivision, body politic, or other governmental unit to the authority, including fire and police protection, and may otherwise provide, to the extent permitted by law, any funds, property, or services to the authority.

History: 2005 a. 335.

**114.68 Political activities.** (1) No employee of the authority may directly or indirectly solicit or receive subscriptions or contributions for any partisan political party or any political purpose while engaged in his or her official duties as an employee. No employee of the authority may engage in any form of political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold partisan political office while engaged in his or her official duties as an employee or engage in any political activity while not engaged in his or her official duties as an employee to such an extent that the person's efficiency during working hours will be impaired or that he or she will be tardy or absent from work. Any violation of this section is adequate grounds for dismissal.

(2) If an employee of the authority declares an intention to run for partisan political office, the employee shall be placed on a leave of absence for the duration of the election campaign and if elected shall no longer be employed by the authority on assuming the duties and responsibilities of such office.

(3) An employee of the authority may be granted, by the executive director, a leave of absence to participate in partisan political campaigning.

(4) Persons on leave of absence under sub. (2) or (3) shall not be subject to the restrictions of sub. (1), except as they apply to the solicitation of assistance, subscription, or support from any other employee in the authority.

History: 2005 a. 335.

**114.69 Liability limited.** (1) Neither the state nor any political subdivision of the state nor any officer, employee, or agent of the state or of a political subdivision who is acting within the scope

of employment or agency is liable for any debt, obligation, act, or omission of the authority.

(2) All of the expenses incurred by the authority in exercising its duties and powers under this chapter shall be payable only from funds of the authority.

History: 2005 a. 335.

**114.70 Issuance of bonds.** (1) The authority may issue bonds for any corporate purpose. All bonds are negotiable for all purposes, notwithstanding their payment from a limited source.

(2) The bonds of each issue shall be payable from sources specified in the bond resolution under which the bonds are issued.

(3) The authority may not issue bonds unless the issuance is first authorized by a bond resolution. Bonds shall bear the dates, mature at the times not exceeding 30 years from their dates of issue, bear interest at the rates, be payable at the times, be in the denominations, be in the form, carry the registration and conversion privileges, be executed in the manner, be payable in lawful money of the United States at the places, and be subject to the terms of redemption, that the bond resolution provides. The bonds shall be executed by the manual or facsimile signatures of the officers of the authority designated by the board. The bonds may be sold at public or private sale at the price, in the manner, and at the time determined by the board. Pending preparation of definitive bonds, the authority may issue interim receipts or certificates that the authority shall exchange for the definitive bonds.

(4) Any bond resolution may contain provisions, which shall be a part of the contract with the holders of the bonds that are authorized by the bond resolution, regarding any of the following:

(a) Pledging or assigning specified assets or revenues of the authority.

(b) Setting aside reserves or sinking funds, and the regulation, investment, and disposition of these funds.

(c) Limitations on the purpose to which or the investments in which the proceeds of the sale of any issue of bonds may be applied.

(d) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, the bonds authorized by the bond resolution.

(e) Funding, refunding, advance refunding, or purchasing outstanding bonds.

(f) Procedures, if any, by which the terms of any contract with bondholders may be amended, the amount of bonds the holders of which must consent to the amendment, and the manner in which this consent may be given.

(g) Defining the acts or omissions to act that constitute a default in the duties of the authority to the bondholders, and providing the rights and remedies of the bondholders in the event of a default.

(h) Other matters relating to the bonds that the board considers desirable.

(5) Neither the members of the board nor any person executing the bonds is liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance of the bonds, unless the personal liability or accountability is the result of willful misconduct.

(6) No less than 14 days prior to any commitment by the authority for the issuance of bonds under this section, the authority shall submit the bond resolution to the governor, to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2), and to the cochairpersons of the joint committee on finance. If, within 14 days after the date on which the bond resolution is submitted to the joint committee on finance, the cochairpersons of the committee do not notify the authority that the committee has scheduled a meeting for the purpose of reviewing the bond resolution, the authority may proceed with any com-

mitment for the issuance of bonds under the bond resolution. If, within 14 days after the date on which the bond resolution is submitted to the committee, the cochairpersons of the committee notify the authority that the committee has scheduled a meeting to review the bond resolution, the authority may proceed with any commitment for the issuance of bonds under the bond resolution only upon approval by the committee.

History: 2005 a. 335.

**114.71 Bond security.** The authority may secure any bonds issued under this chapter by a trust agreement, trust indenture, indenture of mortgage, or deed of trust by and between the authority and one or more corporate trustees. The bond resolution providing for the issuance of bonds so secured shall pledge some or all of the revenues to be received by the authority, including to the extent permitted by law any grant, aid, loan, or other contribution, or shall mortgage, assign, or grant security interests in some or all of the property of the authority, or both, and may contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law. A bond resolution may contain any other provisions that are determined by the board to be reasonable and proper for the security of the bondholders.

History: 2005 a. 335.

**114.72 Bonds not public debt.** (1) The state is not liable on bonds of the authority and the bonds are not a debt of the state. Each bond of the authority shall contain a statement to this effect on the face of the bond. The issuance of bonds under this chapter does not, directly, indirectly, or contingently, obligate the state or any political subdivision of the state to levy any tax or to make any appropriation for payment of the bonds. Nothing in this section prevents the authority from pledging its full faith and credit to the payment of bonds issued under this chapter.

(2) Nothing in this chapter authorizes the authority to create a debt of the state, and all bonds issued by the authority under this chapter are payable, and shall state that they are payable, solely from the funds pledged for their payment in accordance with the bond resolution authorizing their issuance or in any trust indenture or mortgage or deed of trust executed as security for the bonds. The state is not liable for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, mortgage, obligation, or agreement which may be undertaken by the authority. The breach of any pledge, mortgage, obligation, or agreement undertaken by the authority does not impose any pecuniary liability upon the state or any charge upon its general credit or against its taxing power.

History: 2005 a. 335.

**114.73 State pledge.** The state pledges to and agrees with the holders of bonds, and persons that enter into contracts with the authority under this chapter, that the state will not limit or alter the rights vested in the authority by this chapter before the authority has fully met and discharged the bonds, and any interest due on the bonds, and has fully performed its contracts, unless adequate provision is made by law for the protection of the bondholders or those entering into contracts with the authority.

History: 2005 a. 335.

**114.74 Refunding bonds.** (1) The authority may issue bonds to fund or refund any outstanding bond, including the payment of any redemption premium on the outstanding bond and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase, or maturity.

(2) The authority may apply the proceeds of any bond issued to fund or refund any outstanding bond to purchase, retire at maturity, or redeem any outstanding bond. The authority may, pending application, place the proceeds in escrow to be applied to the purchase, retirement at maturity, or redemption of any outstanding bond at any time.

History: 2005 a. 335.

**114.75 Limit on amount of outstanding bonds.** The authority may not have outstanding at any one time bonds in an aggregate principal amount exceeding \$100,000,000, excluding bonds issued to refund outstanding bonds.

**History:** 2005 a. 335.

**114.76 Bonds exempt from taxation.** The state covenants with the purchasers and all subsequent holders and transferees of bonds issued by the authority, in consideration of the acceptance of any payment for the bonds, that its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such bonds shall at all times be free and exempt from all state, city, county, or other taxation provided by the laws of the state.

**History:** 2005 a. 335.

**114.77 Funding of certain project costs. (1)** In this section, “spaceport improvement project” means any project to acquire, construct, develop, plan, design, establish, create, improve, enlarge, reconstruct, or equip any spaceport or spaceport facility.

**(2)** The costs of spaceport improvement projects involving federal aid, in excess of the federal government’s share, shall be borne by the authority and the state, except that the state shall pay not more than 50 percent of such excess costs, nor more than \$10,000,000 for the cost of a building project or building improvement project and no part of the cost of hangars. The secretary, upon agreement with the authority, may advance up to 10 percent of the amount of any federal aid grant agreement for the payment of project costs of a federal aid project, subject to reimbursement upon final liquidation and settlement of the project with the authority and federal government.

**(3)** The costs of spaceport improvement projects not involving federal aid shall be borne by the authority and the state. The state shall pay not more than 80 percent of such costs, which may include the cost of the land, the cost of lands or interest in lands

deemed necessary for the protection of the aerial approaches, the cost of formulating the project application and preparing the plans and specifications, and the cost of construction and of all facilities deemed necessary for the operation of the spaceport. The state shall contribute not more than \$10,000,000 for the cost of a building project or building improvement project and no part of the cost of hangars.

**(4)** The percentage of the costs borne by the state shall be determined by the department on the basis of the relative importance of the specific project to any state spaceport development program as a whole.

**(5)** The state shall promote the development of a spaceport system in this state and promote the development of joint spaceports in this state and in adjoining states which mutually benefit citizens of this state and those of adjoining states. The secretary may use the funds provided by the state to assist the authority in matching the federal aid that may become available to the state or available for specific projects or joint projects within this state or in an adjoining state.

**(6)** All funds provided by the state under this section shall be paid from the appropriation accounts under s. 20.395 (2) (mq), (mv), and (mx).

**History:** 2005 a. 335.

**114.78 Tax exemption.** The exercise of the powers granted by this subchapter will be in all respects for the benefit of the people of this state and for the increase of their commerce, welfare, and prosperity, and, as the undertaking of the authority’s powers and duties under this subchapter will constitute the performance of an essential public function, the authority shall not be required to pay any taxes or assessments upon or in respect to any property acquired or used by the authority under this subchapter and the authority’s income therefrom shall at all times be free from taxation of every kind by the state and by political subdivisions of the state.

**History:** 2005 a. 335.