

## 2011 DRAFTING REQUEST

### Bill

Received: 10/03/2011

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Sheila Harsdorf (608) 266-7745

By/Representing: Matt

May Contact:

Drafter: agary

Subject: Transportation - other

Addl. Drafters:

Extra Copies: EVM

Submit via email: YES

Requester's email: Sen.Harsdorf@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Municipal airports owned by municipalities in adjoining states

---

### Instructions:

See attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			Local
/P1	agary 10/10/2011	jdyer 10/14/2011	jfrantze 10/14/2011	_____	ggodwin 10/14/2011		Local
/1	agary 10/25/2011	jdyer 10/26/2011	phenry 10/26/2011	_____	mbarman 10/26/2011	ggodwin 10/26/2011	

FE Sent For:

AT INTG  
10/28/2011

**2011 DRAFTING REQUEST**

**Bill**

Received: **10/03/2011**

Received By: **agary**

Wanted: **As time permits**

Companion to LRB:

For: **Sheila Harsdorf (608) 266-7745**

By/Representing: **Matt**

May Contact:

Drafter: **agary**

Subject: **Transportation - other**

Addl. Drafters:

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Sen.Harsdorf@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Municipal airports owned by municipalities in adjoining states

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			Local
/P1	agary 10/10/2011	jdyer 10/14/2011	jfrantze 10/14/2011	_____	ggodwin 10/14/2011		Local
/1	agary 10/25/2011	jdyer 10/26/2011	phenry 10/26/2011	_____	mbarman 10/26/2011		

FE Sent For:

**2011 DRAFTING REQUEST**

**Bill**

Received: 10/03/2011

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Sheila Harsdorf (608) 266-7745

By/Representing: Matt

May Contact:

Drafter: agary

Subject: Transportation - other

Addl. Drafters:

Extra Copies: EVM

Submit via email: YES

Requester's email: Sen.Harsdorf@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Municipal airports owned by municipalities in adjoining states

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?		1 10/26 jld		_____			Local
/P1	agary 10/10/2011	jdyer 10/14/2011	jfrantze 10/14/2011	_____	ggodwin 10/14/2011		

FE Sent For:

10/26  
ph  
<END>

**2011 DRAFTING REQUEST**

**Bill**

Received: 10/03/2011

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Sheila Harsdorf (608) 266-7745

By/Representing: Matt

May Contact:

Drafter: agary

Subject: Transportation - other

Adl. Drafters:

Extra Copies: EVM

Submit via email: YES

Requester's email: Sen.Harsdorf@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Municipal airports owned by municipalities in adjoining states

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	agary	PI 10/14 jld	JG	10/14			Local

FE Sent For:

<END>

~~reference to law taken out~~ → 9/30

Matt - Ch. 114 Harstedt

• 114.11<sup>(3)</sup> → interstate reciprocity for local airports

• locally owned airport → owned by a municipality outside the state (MN municipality owns an airport in Pierce Co.)

• b/c of this statute, & 114.136 (Approaches), the muni. in MN says they can place an airport zoning overlay around the airport (3 mile overlay)

• dispute b/w WI ~~state~~ & county over zoning authority

• want to make sure WI locals have full say

stat: say that

• language ~~wouldn't~~ extend zoning authority to a muni. in another state



State of Wisconsin  
2011 - 2012 LEGISLATURE

in  
10/10  
acted  
by 10/20



LRB-3058/P1

ARG:...

JLd

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

4

Gen

1  
2

AN ACT ...; relating to: local airports and authority to enact aerial approach ordinances.

***Analysis by the Legislative Reference Bureau***

Under current law, any county or city, village, or town (municipality) in this state may own and operate airports or airport facilities, such as landing fields or take-off strips, or spaceports or spaceport facilities (collectively "airports"), either within or outside the limits of the county or municipality. A county or municipality in this state may also own and operate airports in an adjoining state the laws of which permit reciprocal privileges. A county, municipality, or other political subdivision in an adjoining state may own and operate airports in this state if the laws of the adjoining state permit reciprocal privileges. If a county, municipality, or other political subdivision in an adjoining state owns and operates an airport in this state, this state's laws apply with respect to the airport (except laws relating to financing the project), and the county, municipality, or other political subdivision in the adjoining state has all privileges, rights, and duties that would apply to a county or municipality in this state, including the right of eminent domain.

Also under current law, a county or municipality that owns an airport may protect the aerial approaches to the airport by adopting an 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 the airport (within 3 miles of an airport or 5 miles of a spaceport). An ordinance adopted under this authority is effective whether the airport and lands affected by the ordinance are located within or outside the limits of the county or municipality. The ordinance may

\*

be adopted, enforced, and administered without the consent of any other local governing body.✓

This bill specifies that a county, municipality, or other political subdivision in an adjoining state that owns and operates an airport in this state does not have authority to enact an aerial approach 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 the airport.✓

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

✓  
1 SECTION 1. 114.11 (3) of the statutes is amended to read:

2 114.11 (3) The governing body of any municipality or other political subdivision  
3 of an adjoining state whose laws permit, is hereby authorized to acquire, establish,  
4 construct, own, control, lease, equip, improve, maintain and operate airports, or  
5 landing fields, or landing and take-off strips or other aeronautical facilities, or  
6 spaceports or spacecraft launch or landing areas or other astronomical facilities, in  
7 this state, subject to all laws, rules and regulations of this state applicable to its  
8 municipalities or other political subdivisions in such aeronautical or astronomical  
9 project, but subject to the laws of its own state in all matters relating to financing  
10 such project. ~~Such~~ Except as provided in s. 114.136 (1) (a), such a municipality or  
11 other political subdivision of an adjoining state shall have all privileges, rights and  
12 duties of like municipalities or other political subdivisions of this state, including the  
13 right to exercise the right of eminent domain.✓ This subsection shall not apply unless  
14 the laws of such adjoining state shall permit municipalities or other political  
15 subdivisions of this state to acquire, establish, construct, own, control, lease, equip,  
16 improve, maintain, operate and otherwise control such airport, landing field or  
17 landing and take-off strips or other aeronautical facilities, or spaceports or

1 spacecraft launch or landing areas or other aeronautical facilities, therein with all  
2 privileges, rights and duties applicable to the municipalities or other political  
3 subdivisions of such adjoining state in such aeronautical or aeronautical projects  
4 except privileges, rights, and duties of the kind described in s. 114.136.

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

5 **SECTION 2.** 114.136 (1) (a) of the statutes is amended to read:

6 114.136 (1) (a) Any county, city, village or town in this state that is the owner  
7 of a site for an airport or spaceport which has been approved for such purpose by the  
8 appropriate agencies of the state and the federal government may protect the aerial  
9 approaches to such site by ordinance regulating, restricting and determining the use,  
10 location, height, number of stories and size of buildings and structures and objects  
11 of natural growth in the vicinity of such site and may divide the territory to be  
12 protected into several areas and impose different regulations and restrictions with  
13 respect to each area. The provisions of such ordinance shall be effective whether the  
14 site and the lands affected by such ordinance are located within or without the limits  
15 of such county, city, village or town, and whether or not such buildings, structures  
16 and objects of natural growth are in existence on the effective date of the ordinance.  
17 Such regulations, restrictions and determinations are declared to be for the purpose  
18 of promoting the public safety, welfare and convenience, and may be adopted,  
19 enforced and administered without the consent of any other governing body. Any  
20 ordinance adopted under this section may be amended from time to time in the same  
21 manner as is provided for the adoption of the original ordinance in sub. (2). The  
22 authority granted in this section shall be independent and exclusive of any other



1 authority granted in the statutes. This section ✓ does not apply to a county, city,  
2 village, town, or other political subdivision of an adjoining state. ✓

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

**SECTION 3. Initial applicability.**

4 (1) This act first applies to all ordinances adopted by a ✓ county, city, village,  
5 town, or other political subdivision of an adjoining state, whether adopted before or  
6 after the effective date of this subsection. ✓

7 (END)

## Gary, Aaron

---

**From:** Wuebke, Matt  
**Sent:** Tuesday, October 25, 2011 6:12 PM  
**To:** Gary, Aaron  
**Subject:** RE: LRB-3058 - Airport regulations

Hi Aaron,

Thanks for your feedback. We will maintain the draft as you have it. Please send it through the process so we can request the bill jacket.

Thanks,  
Matt

---

**From:** Gary, Aaron  
**Sent:** Wednesday, October 19, 2011 9:22 AM  
**To:** Wuebke, Matt  
**Subject:** RE: LRB-3058 - Airport regulations

Hi Matt,

In my view, the existing "/P1" draft already addresses the reciprocity concern and this proposed change does not help. As I see it, reciprocity means that each state's laws are identical or similar and that an out-of-state owner or operator is subject to the laws of the state where the airport is located. This proposed change is essentially an attempt to make Minnesota's law for it, in order to create a certain equality. I don't think this is helpful. The draft already recognizes on p. 3, line 4 that Minnesota can enact the same type of provision as applied to Wisconsin owners or operators of airports in Minnesota, thereby maintaining the desired reciprocity or equality. The "/P1" draft already attempts to maintain reciprocity by recognizing Minnesota's authority to deal with this issue, and I think that true reciprocity requires giving Minnesota such authority and latitude to address the issue itself rather than, as I see this proposed change, attempting to make Minnesota's law for it. Moreover, I don't believe that s. 114.136 directly applies to airports in Minnesota, so I don't believe that the proposed change actually works. I believe that the Minnesota law (whatever that is) on aerial approach ordinances would apply to an airport in Minnesota that has a Wisconsin owner. Under the "/P1" version, it would be up to Minnesota to decide whether they wanted to change that law or not to more closely match the changes here (and, as indicated on p. 3, line 4, those changes would not defeat reciprocity).

Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

---

**From:** Wuebke, Matt  
**Sent:** Tuesday, October 18, 2011 3:00 PM  
**To:** Gary, Aaron  
**Subject:** LRB-3058 - Airport regulations

Hi Aaron,

We would like to tweak the draft of LRB-3058 to address some concerns that were brought to our attention. The new approach would be to include Wisconsin municipalities in the prohibition from enforcing airport zoning ordinances in other states, thus preserving the reciprocity statute by treating municipalities from both states equally. Here is a suggestion we received:

Proposed amendment to 114.136

....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 o the effective date of the ordinance. The provisions of such ordinance shall not be effective if the site and lands affected by said ordinance are located in an adjacent state, unless any affected county, city, village, or town formally consents to such regulation. Such regulations, restrictions and determinations...

The above language would treat all municipalities equally (both in WI and surrounding states) and thus would not impact the interstate reciprocity clause.

Let me know what you think of this approach and if it would accomplish the change we are seeking.

Thanks,  
Matt



State of Wisconsin  
2011 - 2012 LEGISLATURE

in  
10/25



LRB-3058/1  
ARG:jld:jf

wanted  
10/26  
end of day

KMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

No changes

Regen

✓

1 AN ACT to amend 114.11 (3) and 114.136 (1) (a) of the statutes; relating to: local  
2 airports and authority to enact aerial approach ordinances.

**Analysis by the Legislative Reference Bureau**

Under current law, any county or city, village, or town (municipality) in this state may own and operate airports or airport facilities, such as landing fields or take-off strips, or spaceports or spaceport facilities (collectively "airports"), either within or outside the limits of the county or municipality. A county or municipality in this state may also own and operate airports in an adjoining state the laws of which permit reciprocal privileges. A county, municipality, or other political subdivision in an adjoining state may own and operate airports in this state if the laws of the adjoining state permit reciprocal privileges. If a county, municipality, or other political subdivision in an adjoining state owns and operates an airport in this state, this state's laws apply with respect to the airport (except laws relating to financing the project), and the county, municipality, or other political subdivision in the adjoining state has all privileges, rights, and duties that would apply to a county or municipality in this state, including the right of eminent domain.

Also under current law, a county or municipality that owns an airport may protect the aerial approaches to the airport by adopting an 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 the airport (within three miles of an airport or five miles of a spaceport). An ordinance adopted under this authority is effective whether the airport and lands affected by the ordinance are located within or outside the limits of the county or municipality. The

ordinance may be adopted, enforced, and administered without the consent of any other local governing body.

This bill specifies that a county, municipality, or other political subdivision in an adjoining state that owns and operates an airport in this state does not have authority to enact an aerial approach 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 the airport.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 114.11 (3) of the statutes is amended to read:

2           114.11 (3) The governing body of any municipality or other political subdivision  
3 of an adjoining state whose laws permit, is hereby authorized to acquire, establish,  
4 construct, own, control, lease, equip, improve, maintain and operate airports, or  
5 landing fields, or landing and take-off strips or other aeronautical facilities, or  
6 spaceports or spacecraft launch or landing areas or other aeronautical facilities, in  
7 this state, subject to all laws, rules and regulations of this state applicable to its  
8 municipalities or other political subdivisions in such aeronautical or aeronautical  
9 project, but subject to the laws of its own state in all matters relating to financing  
10 such project. ~~Such~~ Except as provided in s. 114.136 (1) (a), such a municipality or  
11 other political subdivision of an adjoining state shall have all privileges, rights and  
12 duties of like municipalities or other political subdivisions of this state, including the  
13 right to exercise the right of eminent domain. This subsection shall not apply unless  
14 the laws of such adjoining state shall permit municipalities or other political  
15 subdivisions of this state to acquire, establish, construct, own, control, lease, equip,  
16 improve, maintain, operate and otherwise control such airport, landing field or  
17 landing and take-off strips or other aeronautical facilities, or spaceports or

1 spacecraft launch or landing areas or other aeronautical facilities, therein with all  
2 privileges, rights and duties applicable to the municipalities or other political  
3 subdivisions of such adjoining state in such aeronautical or aeronautical projects  
4 except privileges, rights, and duties of the kind described in s. 114.136.

5 **SECTION 2.** 114.136 (1) (a) of the statutes is amended to read:

6 114.136 (1) (a) Any county, city, village or town in this state that is the owner  
7 of a site for an airport or spaceport which has been approved for such purpose by the  
8 appropriate agencies of the state and the federal government may protect the aerial  
9 approaches to such site by ordinance regulating, restricting and determining the use,  
10 location, height, number of stories and size of buildings and structures and objects  
11 of natural growth in the vicinity of such site and may divide the territory to be  
12 protected into several areas and impose different regulations and restrictions with  
13 respect to each area. The provisions of such ordinance shall be effective whether the  
14 site and the lands affected by such ordinance are located within or without the limits  
15 of such county, city, village or town, and whether or not such buildings, structures  
16 and objects of natural growth are in existence on the effective date of the ordinance.  
17 Such regulations, restrictions and determinations are declared to be for the purpose  
18 of promoting the public safety, welfare and convenience, and may be adopted,  
19 enforced and administered without the consent of any other governing body. Any  
20 ordinance adopted under this section may be amended from time to time in the same  
21 manner as is provided for the adoption of the original ordinance in sub. (2). The  
22 authority granted in this section shall be independent and exclusive of any other  
23 authority granted in the statutes. This section does not apply to a county, city,  
24 village, town, or other political subdivision of an adjoining state.

25 **SECTION 3. Initial applicability.**



**Godwin, Gigi**

---

**From:** Wuebke, Matt  
**Sent:** Wednesday, October 26, 2011 1:21 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-3058/1 Topic: Municipal airports owned by municipalities in adjoining states

Please Jacket LRB 11-3058/1 for the SENATE.