



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 1

TO: MEMBERS OF THE SPECIAL COMMITTEE ON AIRPORT AUTHORITIES

FROM: Ronald Sklansky, Senior Staff Attorney, and Scott Grosz, Staff Attorney

RE: Overview of Wisconsin Law Relating to Airport Ownership and Discussion of Airport Governance Options

DATE: September 11, 2006

INTRODUCTION

The Joint Legislative Council established the committee and appointed the chair by a June 9, 2006 mail ballot and appointed a total of 12 members by mail ballots dated August 1 and August 28, 2006. The Joint Legislative Council established the following study assignment for the committee:

The committee is to review the possible ownership and operation of airports in this state by independent airport authorities to ensure an efficient transportation system to foster regional and state economic growth; if desirable, recommend implementing legislation for independent airport authorities, including creation, jurisdiction, governance, finance, transfer, and transition.

OVERVIEW OF WISCONSIN LAW RELATING TO AIRPORT OWNERSHIP

Brief Historical Review

This section of the Memo provides a review of some of the significant legislative history that formed the basis for Wisconsin's current law relating to airport ownership.

Airport legislation appears to have begun in 1919 when legislation was enacted authorizing a county park commission to acquire property, with the consent of the county board, for the purpose of providing "a suitable and convenient place and station upon which aeroplane and aircraft generally may

land, be cared for, and make flight from.” The county park commission also was authorized to impose charges for the use of this land, the income from which was to be paid into the county park fund. [See Ch. 613, Laws of 1919.]

Soon after the 1919 Session, the Legislature similarly granted authority to any city to purchase or lease lands for the use of the public as an aerial landing field upon which the city could construct hangars, shops, and other equipment. A city also was authorized to collect fees for use of the field. [See Ch. 234, Laws of 1921.]

By 1929, the Legislature concluded that a county board, rather than a county park commission, might provide better governance for an airport. A new statutory provision was created to authorize a county board to take over and operate a county park commission airport. All unexpended balances in appropriations made for the year in which the airport would be turned over were to be transferred to the county board to be used for the purposes for which the moneys were appropriated. [See Ch. 285, Laws of 1929.]

Only a few weeks later, the Legislature enacted the predecessor to current ch. 114, Stats., relating to aeronautics. Among other things, the legislation provided that a local legislative body of any county, city, village, or town could operate and regulate airports or landing fields for the use of airplanes and other aircraft. The airport operated by a city, village, or town could be located within or without the municipal boundary. However, a county could operate the airport only within the county limits. Land for the airport could be acquired either by purchase or through the power of eminent domain. The local legislative body was allowed to operate the airport or it was allowed to vest jurisdiction for its operation in any “suitable officer, board or body of such city, village, town, or county.” [See ss. 114.11 to 114.14, 1929 Stats., as created by Ch. 348, Laws of 1929.] The final enactment in the 1929 Session on this subject provided that any power of a county, city, village, or town to operate an airport could be exercised by any two or more municipalities in the operation of joint airports or landing fields. [See ch. 521, Laws of 1929.]

In 1931, a board of harbor commissioners was authorized to “plan air ports, air fields and other facilities needed for the proper operation of airplanes, hydroplanes, amphibian planes, airships, and all other forms of air craft.” If a city were to establish an airport on lands abutting or adjacent to land under the control of the board of harbor commissioners, the “air port” or other facility would be under the control of the board. [See Ch 74, Laws of 1931.]

The state Aeronautic Board was created in 1937 in order to adopt rules and regulations, conduct investigations, and perform all other acts necessary to administer the provisions of ch. 114, Stats. The board was directed to supervise the establishment of minimum standards of safety over aeronautics, including the maintenance, operation, and use of airports. [See Ch. 381, Laws of 1937.]

By 1943, a new legislative enactment created s. 114.14 (2) to (4), 1943 Stats., to authorize a city, village, town, or county to vest jurisdiction of its airport in an airport commission. Consisting of three commissioners who were “especially interested in aeronautics,” the commission would have complete and exclusive control and management over the airport. The commissioners were to serve staggered, six-year terms and be appointed by appropriate governmental officials. An airport commission was authorized to employ necessary personnel and to enter into a contract with private parties for terms not to exceed 10 years for the operation of the airport. [See Ch. 269, Laws of 1943.] Contemplating larger theatres of operation, legislation in 1945 authorized municipalities to operate airports in an adjoining state. The legislation also allowed other states’ municipalities to operate airports in Wisconsin if the

laws of that adjoining state provided the same benefit to Wisconsin municipalities. [See Ch. 74, Laws of 1945.]

The creation of s. 59.07 (92), 1969 Stats., specifically authorized a county to operate an airport and finance airport projects by the issuance of mortgage bonds. Further, the new statute authorized a county to operate airport projects or lease the projects in their entirety or in part. [See Ch. 482, Laws of 1969.]

Finally, in another expansion of operating authority, a new statutory provision was created to permit a municipality in Wisconsin and a municipality in an adjoining state to jointly sponsor an airport project in Wisconsin or in the adjoining state. All matters relating to financing of the joint project were to be governed by the laws of the jurisdiction furnishing the specific funds. All other matters relating to the joint project were to be governed by the laws of the state in which the project was located. [See s. 114.11 (5), Stats., as created by Ch. 148, Laws of 1973.]

Current Law

Current law continues to allow a municipality to own and operate airports, both within and without the jurisdictional limits of the municipality, including that of a county. A municipality specifically may join with another municipality in owning and operating an airport and may also do so with a municipality in an adjoining state. [See s. 114.11, Stats.]

A municipality may vest jurisdiction for the operation of an airport in any officer, board, or body of the municipality. Regulations and fees or charges may be established. Further, operation of the airport may be vested in an airport commission. The municipal governing body will determine the number of commissioners, the terms of the commissioners, and the commissioner's compensation. All moneys appropriated for the airport or earned by the airport are to be deposited with the municipal treasurer, where the moneys must be kept in a special fund and paid out only on order of the airport commission. The airport commission may contract with private parties for a term not to exceed 10 years for the operation of the airport. [See s. 114.14, Stats.]

A board of harbor commissioners still has a role to play, but, unlike past law, it may do so only when authorized by a municipal governing body. In this case, the board of harbor commissioners may operate airport facilities owned or leased by the municipality and located on or contiguous to the harbor lands. [See s. 30.38 (8) (b) 1., Stats.]

The statutes also continue specifically to authorize a county to acquire property for airports, to own and operate airports, and to finance airport projects by the issuance of revenue bonds. [See ss. 59.52 (6) (a) and 59.58 (1), Stats.]

OVERVIEW: AIRPORT GOVERNANCE STRUCTURES

Examples Outside of Wisconsin

In the United States, nearly all major commercial airports are publicly governed and operated by local or regional entities.¹ Nonetheless, airport governance structure varies widely across the nation. Major airports may be run by the cities or counties in which they are located, by an independent public authority, or by a combination of the aforementioned entities. In some cases, one entity may own the property on which an airport is located while another may be responsible for the airport's governance and operation.

The following table notes the governing entity for major airports throughout the country. Following the table are detailed descriptions of airport governance in the upper Midwest, as well as one airport, San Diego, which recently shifted its governance structure from port district governance to governance by an airport authority.

SELECTED AIRPORT GOVERNING ENTITIES

AIRPORT	GOVERNING ENTITY	AIRPORT OR ENTITY WEBSITE
O'Hare International Airport	City of Chicago	www.flychicago.com
Minneapolis-St. Paul International Airport	Metropolitan Airports Commission	www.msairport.com
Detroit Metropolitan Wayne County Airport	Wayne County Airport Authority	www.metroairport.com
San Diego International Airport	San Diego County Regional Airport Authority	www.san.org
Port Columbus International Airport (Ohio)	Columbus Regional Airport Authority	www.port-columbus.com
Los Angeles International Airport	Los Angeles World Airports (City of Los Angeles)	www.lawa.org
Hartsfield-Jackson Atlanta Int'l Airport	City of Atlanta	www.atlanta-airport.com
Denver International Airport	City and County of Denver	www.flydenver.com
Logan International Airport (Boston, MA)	Massachusetts Port Authority (Massport)	www.massport.com
Newark Liberty, LaGuardia, JFK International Airports	Port Authority of New York and New Jersey	www.panynj.gov

¹ Indianapolis International Airport is a rare exception: it is owned by the City of Indianapolis but managed and operated by the private British firm BAA.

Focus: O'Hare International Airport (Chicago, IL)

O'Hare International Airport is part of the Chicago Airport System, along with Midway International Airport. The airports are owned and operated by the City of Chicago. The city's Department of Aviation is responsible for the management, planning, design, operation, and maintenance of O'Hare and Midway. The Chicago Airport System is fully self-supporting and receives no local taxpayers' dollars.²

Chicago's Department of Aviation includes an executive staff of roughly 25 people plus nearly 2000 additional employees.

In 1995, in anticipation of the area's growing transportation needs, the Cities of Chicago, Illinois and Gary, Indiana signed the Chicago-Gary airport compact. The Compact created the Chicago/Gary Regional Airport Authority, which is responsible for the operation of the Gary/Chicago International Airport in Gary, Indiana. The Compact recognized the ability of the Gary/Chicago Airport to serve the future transportation needs of the Chicago metro area.

Focus: Minneapolis-St. Paul Int'l Airport (Minneapolis/St. Paul, MN)

The Metropolitan Airports Commission (MAC) owns and operates the Minneapolis-St. Paul International Airport as well as six reliever airports. In 1943, the Minnesota Legislature created the commission, a public corporation, in order to promote efficiency and discourage the formation of competing airports in the seven county Twin Cities area.

The MAC does not receive appropriations from the Minnesota operating budget. Rather, it pays its expenses from the revenue it generates, and receives state and federal grants for construction and improvements. Major sources of revenue include airline rates and charges, parking, concessions, and other building and ground rents. The MAC has the authority to levy property taxes within its jurisdiction to pay for operating expenses, bond debt, and service and maintenance. However, it has not levied taxes to support operations or pay bond debt since the 1960's. It has not levied taxes for police or fire service, or roadway upkeep, since the 1980's.³

In addition to its working capital requirement, the MAC retains surplus revenue for projects such as construction and infrastructure improvements. At the end of 2005, the MAC had in its operating fund \$39 million in excess of its working capital requirement.⁴ The MAC invests idle cash in accordance with Minnesota law.⁵

The MAC Board of Commissioners sets and interprets the Commission's policies. These policies are implemented by the MAC executive director and staff. The 15-person MAC board consists of 12 commissioners and a chair, appointed by the Governor, as well as the Mayors of Minneapolis and St. Paul, or their appointees.

² http://www.flychicago.com/doa/about/doa_about.shtm

³ <http://www.mspairport.com/mac/organization/Budget.aspx>

⁴ Management's Discussion and Analysis, Metropolitan Airport Commission 2005 Comprehensive Annual Financial Report.

⁵ *Id.*

Eight of the 12 Governor-appointed commissioners must come from the metropolitan area of the Twin Cities. Each commissioner must represent two of the council districts numbered 1 to 16 within the metropolitan area.

The remaining four appointees of the Governor come from outside the metropolitan area. Two must represent cities, towns, or counties containing a “key” airport, as designated by the Commissioner of Transportation. The other two must represent cities, towns, or counties containing an “intermediate” airport, as designated by the Commissioner of Transportation.

Focus: Detroit Metropolitan Wayne County Airport (Detroit, MI)

Detroit Metropolitan Wayne County Airport is operated by the Wayne County Airport Authority. Established in 2002 as a political subdivision and instrumentality of Wayne County, the Wayne County Airport Authority manages Detroit Metropolitan Wayne County airport as well as Willow Run Airport. The airports remain Wayne County facilities.⁶

The Wayne County Airport Authority is self-supporting, and pays its expenses with revenue generated by parking fees, leases, concessions, landing fees, and other sources. The Authority retains its surplus revenue for its capital improvement projects and invests current assets in accordance with Michigan law. The Authority regularly adjusts its landing fees based on semi-annual financial projections. In addition, the Authority refunds some surplus revenue to certain airlines.⁷ Although the adjustments reduce surplus revenue, they allow the Authority to increase its landing volume through competitive advantage over other airports.

The Wayne County Airport Authority is governed by a seven-member Board of Directors. Two members are appointed by the Governor of Michigan. One member is appointed by the Wayne County Commission, the legislative body of Wayne County government. Four members are appointed by the Wayne County Executive, the local chief executive officer. The initial terms of appointment range between two and eight years, with six-year terms following expiration of the initial terms.

Focus: Port Columbus International Airport (Columbus, OH)

The Columbus Regional Airport Authority (CRAA) operates Port Columbus International Airport along with two other airports in the Columbus area. The CRAA, an independent special purpose subdivision of the State of Ohio, was created in 1990 by the Columbus City Council. The Authority, then named the Columbus Municipal Airport Authority, began operations in 1991 under a use agreement with the City of Columbus. Effective in 2003, the Columbus Municipal Airport Authority merged with the Rickenbacker Port Authority (RPA) and adopted the Authority’s current name.⁸

Significant aspects of the 2003 merger with the RPA include annual payments to the CRAA of \$4.338 million for 10 years by Franklin County to facilitate reorganization, payment of county debt obligations by the Authority, and waiver of debt owed by the RPA to the county. The CRAA receives revenue from areas such as airline fees, parking, concessions and investment income; it regularly operates with a revenue surplus. The CRAA also receives federal, state, and local grant moneys for

⁶ <http://www.metroairport.com/about/>

⁷ Management’s Discussion and Analysis, Wayne County Airport Authority 2005 Comprehensive Annual Financial Report.

⁸ 2005 Comprehensive Annual Financial Report, Columbus Regional Airport Authority, pages 32-33.

<http://www.columbusairports.com/news/publications/cafr/2005-CAFR.pdf>

infrastructure improvements. Surplus revenue is used primarily for required funding matches in capital construction, for projects ineligible for grant funding, and for operating reserves.

A nine-member board of directors governs the Columbus Regional Airport Authority. Four of those directors are appointed by the Mayor of Columbus with the advice and consent of the City Council. Four of the members are appointed by the Franklin County Board of Commissioners. The remaining member is jointly appointed by the Mayor and the County Board. Members serve staggered four-year terms and may be reappointed.

Focus: San Diego International Airport (San Diego, CA)

The San Diego County Regional Airport Authority operates the San Diego International Airport. The Airport Authority was created on January 1, 2003 as a local entity of regional government with jurisdiction throughout San Diego County. Subsequently, the San Diego Unified Port District transferred ownership and operation of the San Diego International Airport to the Airport Authority.

The San Diego County Regional Airport Authority receives its revenue from typical airport fees such as airline fees, parking, and concessions as well as federal grant funds. The Authority is self-sustaining and does not receive tax revenue. The Authority's surplus revenue likely becomes an unrestricted asset used to meet ongoing obligations such as capital improvements, retirement contributions, and operating and insurance contingencies.⁹

The San Diego County Regional Airport Authority is governed by a nine-member board. The nine members include three executive committee members as well as six additional members. Of the three executive committee members, one is appointed by the California Governor and confirmed by the state Senate. The second member is appointed by the San Diego County Sheriff and confirmed by the San Diego County Board. The third is appointed by the San Diego Mayor and confirmed by the San Diego City Council.

The Mayor of San Diego also appoints two of the other six board members. The four remaining board members are the mayors of the communities surrounding San Diego or their appointees. The terms of the nine board members are staggered at either two, four, or six years.

2005 Assembly Bill 1089

2005 Assembly Bill 1089, introduced in the Wisconsin Legislature on March 6, 2006, generally related to the creation of a local airport district.

The bill authorized one or more local governmental units to create an airport district that would be a separate unit of local government if appropriate enabling resolutions were adopted and the members of the district board were appointed and qualified. The bill also mandated the creation of an airport district with respect to a county currently owning or operating an airport classified by the Federal Aviation Administration (FAA) as a transport airport providing scheduled air transportation services and having in excess of two million scheduled passenger enplanements during the 12-month period preceding the effective date of the legislation. [See proposed ss. 229.861 (1) and 229.862 (2), Stats.]

⁹ San Diego County Regional Airport Authority 2005 Comprehensive Annual Financial Report.

The large county airport district (two million enplanements) would be governed by a seven-member board, four members of which would be appointed by the Governor to serve four-year terms and three members of which would be appointed by the chief elected official of the county for four-year terms. A district other than a large county airport district would be governed by a five-member district board to be appointed by the chief elected official of the creating local government for four-year terms. If one of these latter districts were created by more than one local governmental unit, the appointment of district board members would be allocated between the participating units based on an agreement entered into by all of the creating local governmental units. [See proposed s. 229.861 (3) and (4), Stats.]

The initial territorial jurisdiction of the large county airport district would be the territory of that airport. Initial territorial jurisdiction of any other district would include all or part of the territory of a local governmental unit, as specified in the enabling resolution, except that no local governmental territory could be within the jurisdiction of more than one district. [See proposed s. 229.862 (1) and (2), Stats.]

In connection with airport facilities, a district would have the power to:

1. Acquire, construct, equip, maintain, improve, operate, and manage property, interests, or easements in property.
2. Grant concessions.
3. Enter into various specified contracts.
4. Sell or otherwise dispose of unneeded or unwanted property.

Among other normal corporate powers, a district also would be authorized to issue revenue bonds and have concurrent police power, with other authorized peace officers, in its own jurisdiction. [See, specifically, proposed s. 229.863 (4), (7), and (13), Stats.]

Again, proposed s. 229.861, Stats., would create the so-called large county airport district. Upon its creation, the affected county would be required to transfer and assign to the district all of the county's right, title, and interest in an airport and in airport facilities that are owned or operated by the county. The transfer would include all of the county's interests and assets, property, licenses, contracts, and revenues related to the airport and airport facilities. In turn, the district not only would accept these interests, but would also accept all obligations and liabilities of the county related to the airport and airport facilities. The creation of any district other than a large county airport district, and the signing of a transfer agreement, would be a matter of local governmental unit discretion. [See proposed s. 229.865 (1) and (2), Stats.]

Under the bill, a district could issue revenue bonds for any corporate purpose related to airport facilities, the operation of an airport, or the impact of an airport on surrounding areas and properties. The bonds would be repaid solely out of revenues of the district. However, neither the state nor any political subdivision of the state would be liable on the bonds issued by a district. [See proposed s. 229.866 (1), (2), and (8), Stats.]

A district, under the bill, would be required to prepare an annual budget providing that the rates and other charges received by the district would be used for the general expenses and capital expenditures of the district and to repay bondholders. [See proposed s. 229.868, Stats.]

Assembly Bill 1089 was the subject of a public hearing held on March 7, 2006, before the Assembly Committee on Urban and Local Affairs. The bill failed to pass the Legislature pursuant to Senate Joint Resolution 1.

RS:SG:jal