

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018

COMMITTEE STATEMENT

LB901

Hearing Date: Monday January 22, 2018
Committee On: Transportation and Telecommunications
Introducer: Bostelman
One Liner: Require Director of Aeronautics to consult with the Military Department in certain structure permitting decisions

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Bostelman, Briese, Friesen, Geist, Hilgers, Hughes, Murante, Smith
Nay:
Absent:
Present Not Voting:

Verbal Testimony:

Proponents:
Senator Bruce Bostelman
Major General Daryl Bohac

Representing:
District 23
Nebraska Military Department

Opponents:
Rob Stupar
Frank Costanza
Dave Belote

Representing:
Enel Green Power North America, Inc.
Tradewind Energy
Tradewind Energy

Neutral:

Representing:

Summary of purpose and/or changes:

This bill relates to the authority of the director of the Division of Aeronautics in the Department of Transportation regarding the approval of structures above a certain height (generally 150 feet) and the impact those structures may have upon air navigation. This bill relates specifically to proposed structures in flight training areas of the United States Department of Defense or the Nebraska National Guard.

This bill provides that if the proposed location of a structure is classified as a terrain flight training area, the director shall consult with the Military Department to determine if the proposed structure will significantly impact the use of such location as a training area. If it is determined that the proposed structure will significantly impact such use, the director of Aeronautics shall deny the application.

Explanation of amendments:

AM 1726 strikes the original provisions of the bill and inserts the new provisions of the amendment as the bill. Changes to the original bill include adding a defined term terrain "flight training area," which means an area established by the Nebraska National Guard within which military and related flight training is conducted using rotary-winged aircraft, and which areas existed on the effective date of the act.

That term is used in Section 2 of with amendment, which amends Section 3-404 (1). If a permit application for a proposed structure is made to the Director of Aeronautics for the structure to be built within the boundaries of the terrain flight training area, such application would have to be accompanied by a written mitigation agreement between the applicant, the United States Department of Defense Siting Clearinghouse, and the Nebraska National Guard. In any application under the act, the director's review currently considers the character of flying operations expected to be conducted in the area, the nature of the terrain, the character of the neighborhood, the uses to which the property concerned is devoted or adaptable, the proximity to existing airports, the height of adjacent existing structures, and other facts and circumstances existing at the time of the application. These current requirements and the provision that the director shall impose only such restrictions or requirements as may be reasonable necessary to carry out the provisions of the act are stricken and then re-ordered in subsections (2) and (3) of Section 3-404 to harmonize the new language in subsection (1). The director's ability to deny the application does not change.

Subsection (4) of the amendment provides that on or before August 1, 2018, the Nebraska National Guard shall provide the Division of Aeronautics with a description of the boundaries of the terrain flight training areas, either by metes and bounds or an official map showing the areas. The description or map shall be used by the division in its management of the airspace pursuant to the Act.

Curt Friesen, Chairperson