

Introduced by Senator Negrete McLeodFebruary 18, 2010

An act to amend Sections 21670, 21670.1, 21670.4, 21671.5, 21674.7, 21675.1, 21678, 21679, and 21679.5 of, to add Section 21679.3. to, and to repeal Section 21677 of, the Public Utilities Code, relating to airports.

LEGISLATIVE COUNSEL'S DIGEST

SB 1141, as introduced, Negrete McLeod. Airports: airport land use commissions.

(1) The State Aeronautics Act governs the creation and operation of airports in this state. The act provides for the establishment of county airport land use commissions to carry out various requirements, including the formulation of a comprehensive land use compatibility plan to provide for the orderly growth of airports and the area surrounding airports within the jurisdiction of the commission, and to safeguard the general welfare of the inhabitants within the vicinity of an airport and the public in general. The act requires each county in which there is an airport served by a scheduled airline, with certain exceptions, to establish an airport land use commission.

Existing law requires each county in which there is an airport operated for the benefit of the public to establish an airport land use commission, but authorizes the board of supervisors of a county in which an airport is located that is operated for the benefit of the general public that is not served by a scheduled airline, after consultation with the appropriate airport operators and affected local entities and after public hearing, to adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county that require the creation of a commission and declaring that the county is exempt from establishing an airport land use commission.

This bill would eliminate the authority of the board of supervisors of a county in which an airport is located that is operated for the benefit of the general public that is not served by a scheduled airline, to adopt a resolution declaring that the county is exempt from establishing an airport land use commission. By eliminating this authority, the bill would impose a state-mandated local program by requiring a higher level of service.

(2) Existing law provides that, notwithstanding the above-described requirements, if the board of supervisors and the city selection committee of mayors in the county responsible for appointing a commission each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission pursuant to the act, and a commission need not be formed in that county.

This bill would require that if the board of supervisors and city selection committee determine that proper land use can be accomplished through the actions of an appropriately designated body, that the body be a countywide body. The bill would make other conforming changes and would delete certain obsolete provisions. By limiting the authority of a board of supervisors to designate a body to assume the planning responsibilities of a commission, the bill would impose a state-mandated local program by requiring a higher level of service.

(3) Under existing law, the board of supervisors of a county and each affected city in that county may make a determination that proper land use planning can be accomplished by the county and the affected cities, in which case an airport land use commission need not be formed. If a commission is not formed pursuant to these provisions, existing law requires the supervisors of the county and each affected city, subject to the review and approval of the Division of Aeronautics, to provide for the preparation of the airport land use compatibility plan, among other things.

The bill would eliminate the authority of a county board of supervisors and each affected city to assume the land use planning requirements themselves upon a determination that a commission need not be formed. The bill instead would allow a city in which an airport is located to assume the planning responsibilities of an airport land use commission if, prior to January 1, 2011, the board of supervisors of a county and city council of any city in which an airport was located made a

determination that the proper land use planning could be accomplished by the city and other requirements are met.

The bill would require that if a determination is made by the division that the city has not complied with the requirements of preparing an airport land use compatibility plan by January 1, 2011, then, within 90 days of that determination, the affected airport shall be subject to the airport land use commission.

By eliminating the authority of a board of supervisors of a county and each affected city in that county to determine that a commission is not required, the bill would impose a state-mandated local program by requiring a higher level of service.

(4) Under existing law, the general plan or special plans of a local agency, including a city, county, or special district, are required to be consistent with the airport land use compatibility plan, and each local agency whose general plan or plans includes areas covered by an airport land use compatibility plan is required to submit a copy of its plan, any amendment, any zoning ordinance, and any building regulation, to the airport land use commission, unless exempted, or to the designated body performing planning as an alternative to the airport land use commission. If the plan, amendment, zoning ordinance, or building regulation is inconsistent with the airport land use compatibility plan, the airport land use commission or designated body is required to notify the local agency, and the local agency is required to have a hearing to reconsider its plan or action.

Under existing law, a public agency owning any airport within the boundaries of an airport land use compatibility plan may overrule an airport land use commission's action or recommendation affecting an airport within the jurisdiction of that public agency, after a hearing, by a $\frac{2}{3}$ vote of its governing body, except the County of Marin, which may overrule by a majority vote of its governing body, if it makes specific findings that the proposed action is consistent with the purposes of protecting public health, safety, and welfare, minimizing the public's exposure to excessive noise, and minimizing safety hazards within areas around the public airport.

This bill would repeal the authority of the County of Marin to overrule an airport land use commission's action or recommendation affecting an airport within the county by a majority vote.

(5) Existing law authorizes an airport land use commission to establish a schedule of fees necessary to comply with existing law relative to airport land use commissions and requires that the fees

charged to proponents of actions, regulations, or permits not exceed the estimated reasonable cost of providing the service and be imposed pursuant to certain provisions of the Government Code. Existing law prohibits a commission that has not adopted an airport land use compatibility plan by June 30, 1991, from charging fees, with certain exceptions.

This bill would repeal the prohibition upon a commission charging fees if the commission has not adopted an airport land use compatibility plan by June 30, 1991, and would repeal the exceptions to that prohibition.

(6) This bill would authorize the division to establish an Airport Land Use Commission Establishment Fund and allocate to that fund certain moneys under its control. The bill would require the division, when it determines that funding is sufficient, to inform counties that do not have an operating airport land use commission of the availability of funds for start-up costs, and would authorize the division to grant fund moneys to counties that apply for funding. The bill would require a county that accepts funding to establish an airport land use commission or designate an appropriate countywide body for that purpose within 12 months, and would prohibit the division from providing further funding to any county that fails to comply with the deadline.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21670 of the Public Utilities Code is
- 2 amended to read:
- 3 21670. (a) The Legislature hereby finds and declares that:
- 4 (1) It is in the public interest to provide for the orderly
- 5 development of each public use airport in this state and the area
- 6 surrounding these airports so as to promote the overall goals and
- 7 objectives of the California airport noise standards adopted
- 8 pursuant to Section 21669 and to prevent the creation of new noise
- 9 and safety problems.

1 (2) It is the purpose of this article to protect public health, safety,
2 and welfare by ensuring the orderly expansion of airports and the
3 adoption of land use measures that minimize the public’s exposure
4 to excessive noise and safety hazards within areas around public
5 airports to the extent that these areas are not already devoted to
6 incompatible uses.

7 (b) In order to achieve the purposes of this article, every county
8 in which there is located an airport which is served by a scheduled
9 airline shall establish an airport land use commission. Every
10 county, in which there is located an airport which is not served by
11 a scheduled airline, but is operated for the benefit of the general
12 public, shall establish an airport land use ~~commission, except that~~
13 ~~the board of supervisors of the county may, after consultation with~~
14 ~~the appropriate airport operators and affected local entities and~~
15 ~~after a public hearing, adopt a resolution finding that there are no~~
16 ~~noise, public safety, or land use issues affecting any airport in the~~
17 ~~county which require the creation of a commission and declaring~~
18 ~~the county exempt from that requirement. The board shall, in this~~
19 ~~event, transmit a copy of the resolution to the Director of~~
20 ~~Transportation.~~ *commission.* For purposes of this section,
21 “commission” means an airport land use commission. Each
22 commission shall consist of seven members to be selected as
23 follows:

24 (1) Two representing the cities in the county, appointed by a
25 city selection committee comprised of the mayors of all the cities
26 within that county, except that if there are any cities contiguous
27 or adjacent to the qualifying airport, at least one representative
28 shall be appointed therefrom. If there are no cities within a county,
29 the number of representatives provided for by paragraphs (2) and
30 (3) shall each be increased by one.

31 (2) Two representing the county, appointed by the board of
32 supervisors.

33 (3) Two having expertise in aviation, appointed by a selection
34 committee comprised of the managers of all of the public airports
35 within that county.

36 (4) One representing the general public, appointed by the other
37 six members of the commission.

38 (c) Public officers, whether elected or appointed, may be
39 appointed and serve as members of the commission during their
40 terms of public office.

1 (d) Each member shall promptly appoint a single proxy to
 2 represent him or her in commission affairs and to vote on all
 3 matters when the member is not in attendance. The proxy shall be
 4 designated in a signed written instrument which shall be kept on
 5 file at the commission offices, and the proxy shall serve at the
 6 pleasure of the appointing member. A vacancy in the office of
 7 proxy shall be filled promptly by appointment of a new proxy.

8 (e) A person having an “expertise in aviation” means a person
 9 who, by way of education, training, business, experience, vocation,
 10 or avocation has acquired and possesses particular knowledge of,
 11 and familiarity with, the function, operation, and role of airports,
 12 ~~or is an elected official of a local agency which owns or operates~~
 13 ~~an airport.~~ *airports.*

14 (f) It is the intent of the Legislature to ~~clarify that~~, *clarify*, for
 15 the purposes of this article, that special districts, school districts,
 16 and community college districts are included among the local
 17 agencies that are subject to airport land use laws and other
 18 requirements of this article.

19 SEC. 2. Section 21670.1 of the Public Utilities Code is
 20 amended to read:

21 21670.1. (a) Notwithstanding any other provision of this
 22 article, if the board of supervisors and the city selection committee
 23 of mayors in the county each makes a determination by a majority
 24 vote that proper land use planning can be accomplished through
 25 the actions of an appropriately designated *countywide* body, then
 26 the body so designated shall assume the planning responsibilities
 27 of an airport land use commission as provided for in this article,
 28 and a commission need not be formed in that county.

29 (b) A body designated pursuant to subdivision (a) that does not
 30 include among its membership at least two members having
 31 expertise in aviation, as defined in subdivision (e) of Section 21670,
 32 shall, when acting in the capacity of an airport land use
 33 commission, be augmented so that body, as augmented, will have
 34 at least two members having that expertise. ~~The commission shall~~
 35 ~~be constituted pursuant to this section on and after March 1, 1988.~~

36 (c) (1) Notwithstanding subdivisions (a) and (b), and
 37 subdivision (b) of Section 21670, ~~if~~ *if, prior to January 1, 2011,*
 38 the board of supervisors of a county and ~~each affected~~ *the city*
 39 *council of any city in that county which an airport was located*
 40 ~~each makes~~ *made* a determination that proper land use planning

1 pursuant to this article ~~can~~ *could* be accomplished pursuant to this
2 subdivision, ~~then~~ *a that city may assume the planning*
3 *responsibilities of an airport land use commission need not be*
4 *formed as provided for in that county. this article for an affected*
5 *airport, if all of the following conditions are met:*

6 (A) *The affected airport is certified by the Federal Aviation*
7 *Administration of the United States Department of Transportation*
8 *pursuant to Part 139 (commencing with Section 139.1) of Title 14*
9 *of the Code of Federal Regulations.*

10 (B) *The affected airport has a noise compatibility program in*
11 *effect approved by the Federal Aviation Administration pursuant*
12 *to Part 150 (commencing with Section 150.1) of Title 14 of the*
13 *Code of Federal Regulations.*

14 (C) *The affected airport is owned and operated by an agency*
15 *that is headquartered in a county other than the county in which*
16 *the airport is located.*

17 (2) ~~If the board of supervisors of a county and each affected a~~
18 ~~city makes council made a determination that proper land use~~
19 ~~planning may be accomplished and a commission is not formed~~
20 ~~pursuant to paragraph (1), that county and the appropriate affected~~
21 ~~cities having jurisdiction over an airport, city council, subject to~~
22 ~~the review and approval by the Division of Aeronautics of the~~
23 ~~department, shall do all of the following:~~

24 (A) *Adopt processes for the preparation, adoption, and*
25 *amendment of the airport land use compatibility plan for each*
26 *airport that is served by a scheduled airline or operated for the*
27 *benefit of the general public.*

28 (B) *Adopt processes for the notification of the general public,*
29 *landowners, interested groups, and other public agencies regarding*
30 *the preparation, adoption, and amendment of the airport land use*
31 *compatibility plans.*

32 (C) *Adopt processes for the mediation of disputes arising from*
33 *the preparation, adoption, and amendment of the airport land use*
34 *compatibility plans.*

35 (D) *Adopt processes for the amendment of general and specific*
36 *plans to be consistent with the airport land use compatibility plans.*

37 (E) *Designate the agency that shall be responsible for the*
38 *preparation, adoption, and amendment of each airport land use*
39 *compatibility plan.*

1 (3) The Division of Aeronautics of the department shall review
2 the processes adopted pursuant to paragraph (2), and shall approve
3 the processes if the division determines that the processes are
4 consistent with the procedure required by this article and will do
5 all of the following:

6 (A) Result in the preparation, adoption, and implementation of
7 plans within a reasonable amount of time.

8 (B) Rely on the height, use, noise, safety, and density criteria
9 that are compatible with airport operations, as established by this
10 article, and referred to as the Airport Land Use Planning Handbook,
11 published by the division, and any applicable federal aviation
12 regulations, including, but not limited to, Part 77 (commencing
13 with Section 77.1) of Title 14 of the Code of Federal Regulations.

14 (C) Provide adequate opportunities for notice to, review of, and
15 comment by the general public, landowners, interested groups,
16 and other public agencies.

17 (4) If the ~~county~~ city does not comply with the requirements of
18 paragraph (2) ~~within 120 days, then by January 1, 2011,~~ the
19 ~~affected airport land use compatibility plan and amendments shall~~
20 ~~not be considered adopted pursuant is subject to this article and a~~
21 ~~the airport land use commission shall be established within 90~~
22 ~~days of the determination of noncompliance by the division and~~
23 ~~an airport land use compatibility plan shall be adopted pursuant~~
24 ~~to this article within 90 days of the establishment of the~~
25 ~~commission.~~ *division.*

26 (d) ~~A commission need not be formed in a county that has~~
27 ~~contracted for the preparation of airport land use compatibility~~
28 ~~plans with the Division of Aeronautics under the California Aid~~
29 ~~to Airports Program (Chapter 4 (commencing with Section 4050)~~
30 ~~of Title 21 of the California Code of Regulations), Project~~
31 ~~Ker-VAR 90-1, and that submits all of the following information~~
32 ~~to the Division of Aeronautics for review and comment that the~~
33 ~~county and the cities affected by the airports within the county, as~~
34 ~~defined by the airport land use compatibility plans:~~

35 (1) ~~Agree to adopt and implement the airport land use~~
36 ~~compatibility plans that have been developed under contract.~~

37 (2) ~~Incorporated the height, use, noise, safety, and density~~
38 ~~criteria that are compatible with airport operations as established~~
39 ~~by this article, and referred to as the Airport Land Use Planning~~
40 ~~Handbook, published by the division, and any applicable federal~~

1 ~~aviation regulations, including, but not limited to, Part 77~~
2 ~~(commencing with Section 77.1) of Title 14 of the Code of Federal~~
3 ~~Regulations, as part of the general and specific plans for the county~~
4 ~~and for each affected city.~~

5 ~~(3) If the county does not comply with this subdivision on or~~
6 ~~before May 1, 1995, then a commission shall be established in~~
7 ~~accordance with this article.~~

8 ~~(e) (1) A commission need not be formed in a county if all of~~
9 ~~the following conditions are met:~~

10 ~~(A) The county has only one public use airport that is owned~~
11 ~~by a city.~~

12 ~~(B) (i) The county and the affected city adopt the elements in~~
13 ~~paragraph (2) of subdivision (d), as part of their general and~~
14 ~~specific plans for the county and the affected city.~~

15 ~~(ii) The general and specific plans shall be submitted, upon~~
16 ~~adoption, to the Division of Aeronautics. If the county and the~~
17 ~~affected city do not submit the elements specified in paragraph (2)~~
18 ~~of subdivision (d), on or before May 1, 1996, then a commission~~
19 ~~shall be established in accordance with this article.~~

20 SEC. 3. Section 21670.4 of the Public Utilities Code is
21 amended to read:

22 21670.4. (a) As used in this section, “intercounty airport”
23 means any airport bisected by a county line through its runways,
24 runway protection zones, inner safety zones, inner turning zones,
25 outer safety zones, or sideline safety zones, as defined by the
26 department’s Airport Land Use Planning Handbook and referenced
27 in the airport land use compatibility plan formulated under Section
28 21675.

29 (b) It is the purpose of this section to provide the opportunity
30 to establish a separate airport land use commission so that an
31 intercounty airport may be served by a single airport land use
32 planning agency, rather than having to look separately to the airport
33 land use commissions of the affected counties.

34 (c) In addition to the airport land use commissions created under
35 ~~Section 21670~~ 21670, or the ~~alternatives established under~~
36 *alternative planning undertaken pursuant to subdivision (c) of*
37 Section 21670.1, for their respective counties, the boards of
38 supervisors and city selection committees for the affected counties,
39 by independent majority vote of each county’s two delegations,
40 for any intercounty airport, may do either of the following:

1 (1) Establish a single separate airport land use commission for
2 ~~that the airport. That~~ *The airport land use* commission shall consist
3 of seven members to be selected as follows:

4 (A) One representing the cities in each of the counties, appointed
5 by that county’s city selection committee.

6 (B) One representing each of the counties, appointed by the
7 board of supervisors of each county.

8 (C) One from each county having expertise in aviation,
9 appointed by a selection committee comprised of the managers of
10 all the public airports within that county.

11 (D) One representing the general public, appointed by the other
12 six members of the commission.

13 (2) ~~In accordance with subdivision (a) or (b) of Section 21670.1,~~
14 ~~designate~~ *Designate* an existing appropriate *countywide* entity as
15 that airport’s land use ~~commission.~~ *commission pursuant to*
16 *subdivision (a) or (b) of Section 21670.1.*

17 SEC. 4. Section 21671.5 of the Public Utilities Code is
18 amended to read:

19 21671.5. (a) Except for the terms of office of the members of
20 the first commission, the term of office of each member shall be
21 four years and until the appointment and qualification of his or her
22 successor. The members of the first commission shall classify
23 themselves by lot so that the term of office of one member is one
24 year, of two members is two years, of two members is three years,
25 and of two members is four years. The body that originally
26 appointed a member whose term has expired shall appoint his or
27 her successor for a full term of four years. Any member may be
28 removed at any time and without cause by the body appointing
29 that member. The expiration date of the term of office of each
30 member shall be the first Monday in May in the year in which that
31 member’s term is to expire. Any vacancy in the membership of
32 the commission shall be filled for the unexpired term by
33 appointment by the body which originally appointed the member
34 whose office has become vacant. The chairperson of the
35 commission shall be selected by the members thereof.

36 (b) Compensation, if any, shall be determined by the board of
37 supervisors.

38 (c) Staff assistance, including the mailing of notices and the
39 keeping of minutes and necessary quarters, equipment, and supplies

1 shall be provided by the county. The usual and necessary operating
2 expenses of the commission shall be a county charge.

3 (d) Notwithstanding any other provisions of this article, the
4 commission shall not employ any personnel either as employees
5 or independent contractors without the prior approval of the board
6 of supervisors.

7 (e) The commission shall meet at the call of the commission
8 chairperson or at the request of the majority of the commission
9 members. A majority of the commission members shall constitute
10 a quorum for the transaction of business. No action shall be taken
11 by the commission except by the recorded vote of a majority of
12 the full membership.

13 (f) The commission may establish a schedule of fees necessary
14 to comply with this article. Those fees shall be charged to the
15 proponents of actions, regulations, or permits, shall not exceed the
16 estimated reasonable cost of providing the service, and shall be
17 imposed pursuant to Section 66016 of the Government Code.
18 ~~Except as provided in subdivision (g), after June 30, 1991, a~~
19 ~~commission that has not adopted the airport land use compatibility~~
20 ~~plan required by Section 21675 shall not charge fees pursuant to~~
21 ~~this subdivision until the commission adopts the plan.~~

22 ~~(g) In any county that has undertaken by contract or otherwise~~
23 ~~completed airport land use compatibility plans for at least one-half~~
24 ~~of all public use airports in the county, the commission may~~
25 ~~continue to charge fees necessary to comply with this article until~~
26 ~~June 30, 1992, and, if the airport land use compatibility plans are~~
27 ~~complete by that date, may continue charging fees after June 30,~~
28 ~~1992. If the airport land use compatibility plans are not complete~~
29 ~~by June 30, 1992, the commission shall not charge fees pursuant~~
30 ~~to subdivision (f) until the commission adopts the land use plans.~~

31 SEC. 5. Section 21674.7 of the Public Utilities Code is
32 amended to read:

33 21674.7. (a) An airport land use commission that formulates,
34 adopts, or amends an airport land use compatibility plan shall be
35 guided by information prepared and updated pursuant to Section
36 21674.5 and referred to as the Airport Land Use Planning
37 Handbook published by the Division of Aeronautics of the
38 Department of Transportation.

39 (b) It is the intent of the Legislature to discourage incompatible
40 land uses near existing airports. Therefore, prior to granting permits

1 for the renovation or remodeling of an existing building, structure,
2 or facility, and before the construction of a new building, it is the
3 intent of the Legislature that local agencies shall be guided by the
4 height, use, noise, safety, and density criteria that are compatible
5 with airport operations, as established by this article, and referred
6 to as the Airport Land Use Planning Handbook, published by the
7 division, and any applicable federal aviation regulations, including,
8 but not limited to, Part 77 (commencing with Section 77.1) of Title
9 14 of the Code of Federal Regulations, to the extent that the criteria
10 has been incorporated into the plan prepared by a commission
11 pursuant to Section 21675. This subdivision does not limit the
12 jurisdiction of a commission as established by this article. This
13 subdivision does not limit the authority of local agencies to overrule
14 commission actions or recommendations pursuant to ~~Sections~~
15 ~~21676, 21676.5, Section 21676 or 21677. 21676.5.~~

16 SEC. 6. Section 21675.1 of the Public Utilities Code is
17 amended to read:

18 ~~21675.1. (a) By June 30, 1991, each commission shall adopt~~
19 ~~the airport land use compatibility plan required pursuant to Section~~
20 ~~21675, except that any county that has undertaken by contract or~~
21 ~~otherwise completed airport land use compatibility plans for at~~
22 ~~least one-half of all public use airports in the county, shall adopt~~
23 ~~that airport land use compatibility plan on or before June 30, 1992.~~

24 ~~(b)~~

25 (a) Until a commission adopts an airport land use compatibility
26 plan, a city or county shall first submit all actions, regulations, and
27 permits within the vicinity of a public airport to the commission
28 for review and approval. Before the commission approves or
29 disapproves any actions, regulations, or permits, the commission
30 shall ~~give~~ *provide* public notice in the same manner as the city or
31 county is required to ~~give~~ *provide* for those actions, regulations,
32 or permits. As used in this section, “vicinity” means land that will
33 be included or reasonably could be included within the airport land
34 use compatibility plan. If the commission has not designated an
35 airport influence area for the airport land use compatibility plan,
36 ~~then~~ “vicinity” means land within two miles of the boundary of a
37 public airport.

38 ~~(e)~~

1 (b) The commission may approve an action, regulation, or permit
2 if it finds, based on substantial evidence in the record, all of the
3 following:

4 (1) The commission is making substantial progress toward the
5 completion of the airport land use compatibility plan.

6 (2) There is a reasonable probability that the action, regulation,
7 or permit will be consistent with the airport land use compatibility
8 plan being prepared by the commission.

9 (3) There is little or no probability of substantial detriment to
10 or interference with the future adopted airport land use
11 compatibility plan if the action, regulation, or permit is ultimately
12 inconsistent with the airport land use compatibility plan.

13 ~~(d)~~

14 (c) If the commission disapproves an action, regulation, or
15 permit, the commission shall notify the city or county. The city or
16 county may overrule the commission, by a two-thirds vote of its
17 governing body, if it makes specific findings that the proposed
18 action, regulation, or permit is consistent with the purposes of this
19 article, as stated in Section 21670.

20 ~~(e)~~

21 (d) If a city or county overrules the commission pursuant to
22 subdivision ~~(d)~~, (c), that action shall not relieve the city or county
23 from further compliance with this article after the commission
24 adopts the airport land use compatibility plan.

25 ~~(f)~~

26 (e) If a city or county overrules the commission pursuant to
27 subdivision ~~(d)~~ (c) with respect to a ~~publicly owned~~ *public use*
28 airport that the city or county does not operate, the operator of the
29 airport is not liable for damages to property or personal injury
30 resulting from the city's or county's decision to proceed with the
31 action, regulation, or permit.

32 ~~(g)~~

33 (f) A commission may adopt rules and regulations that exempt
34 any ministerial permit for single-family dwellings from the
35 requirements of subdivision ~~(b)~~ (a) if it makes the findings required
36 pursuant to subdivision ~~(e)~~ (b) for the proposed rules and
37 regulations, except that the rules and regulations may not exempt
38 either of the following:

39 (1) ~~More than two single-family dwellings by the same applicant~~
40 ~~within a subdivision prior to June 30, 1991.~~

1 ~~(2) Single-family *single-family* dwellings in a subdivision where~~
2 ~~25 percent or more of the parcels are undeveloped.~~

3 SEC. 7. Section 21677 of the Public Utilities Code is repealed.

4 ~~21677. Notwithstanding the two-thirds vote required by Section~~
5 ~~21676, any public agency in the County of Marin may overrule~~
6 ~~the Marin County Airport Land Use Commission by a majority~~
7 ~~vote of its governing body. At least 45 days prior to the decision~~
8 ~~to overrule the commission, the public agency governing body~~
9 ~~shall provide the commission and the division a copy of the~~
10 ~~proposed decision and findings. The commission and the division~~
11 ~~may provide comments to the public agency governing body within~~
12 ~~30 days of receiving the proposed decision and findings. If the~~
13 ~~commission or the division's comments are not available within~~
14 ~~this time limit, the public agency governing body may act without~~
15 ~~them. The comments by the division or the commission are~~
16 ~~advisory to the public agency governing body. The public agency~~
17 ~~governing body shall include comments from the commission and~~
18 ~~the division in the public record of the final decision to overrule~~
19 ~~the commission, which may be adopted by a majority vote of the~~
20 ~~governing body.~~

21 SEC. 8. Section 21678 of the Public Utilities Code is amended
22 to read:

23 21678. With respect to a ~~publicly owned~~ *public use* airport that
24 a public agency does not operate, if the public agency pursuant to
25 ~~Section 21676, 21676.5, 21676 or 21677~~ 21676.5 overrules a
26 commission's action or recommendation, the operator of the airport
27 shall be immune from liability for damages to property or personal
28 injury caused by or resulting directly or indirectly from the public
29 agency's decision to overrule the commission's action or
30 recommendation.

31 SEC. 9. Section 21679 of the Public Utilities Code is amended
32 to read:

33 21679. (a) In any county in which ~~there is no airport land use~~
34 ~~commission or other body designated to assume the responsibilities~~
35 ~~of an airport land use commission, or in which the commission or~~
36 ~~other designated body has not adopted an airport land use~~
37 ~~compatibility plan, an interested party may initiate proceedings in~~
38 ~~a court of competent jurisdiction to postpone the effective date of~~
39 ~~a zoning change, a zoning variance, the issuance of a permit, or~~
40 ~~the adoption of a regulation by a local agency, that directly affects~~

1 the use of land within one mile of the boundary of a public airport
2 within the county.

3 (b) The court may issue an injunction that postpones the
4 effective date of the zoning change, zoning variance, permit, or
5 regulation until the governing body of the local agency that took
6 the action does one of the following:

7 (1) In the case of an action that is a legislative act, adopts a
8 resolution declaring that the proposed action is consistent with the
9 purposes of this article stated in Section 21670.

10 (2) In the case of an action that is not a legislative act, adopts a
11 resolution making findings based on substantial evidence in the
12 record that the proposed action is consistent with the purposes of
13 this article stated in Section 21670.

14 (3) Rescinds the action.

15 (4) Amends its action to make it consistent with the purposes
16 of this article stated in Section 21670, and complies with either
17 paragraph (1) or (2), whichever is applicable.

18 (c) The court shall not issue an injunction pursuant to
19 subdivision (b) if the local agency that took the action demonstrates
20 that the general plan and any applicable specific plan of the agency
21 accomplishes the purposes of an airport land use compatibility
22 plan as provided in Section 21675.

23 (d) An action brought pursuant to subdivision (a) shall be
24 commenced within 30 days of the decision or within the appropriate
25 time periods set by Section 21167 of the Public Resources Code,
26 whichever is longer.

27 (e) If the governing body of the local agency adopts a resolution
28 pursuant to subdivision (b) with respect to a ~~publicly owned~~ *public*
29 *use* airport that the local agency does not operate, the operator of
30 the airport shall be immune from liability for damages to property
31 or personal injury from the local agency's decision to proceed with
32 the zoning change, zoning variance, permit, or regulation.

33 (f) As used in this section, "interested party" means any owner
34 of land within two miles of the boundary of the airport or any
35 organization with a demonstrated interest in airport safety and
36 efficiency.

37 SEC. 10. Section 21679.3 is added to the Public Utilities Code,
38 to read:

39 21679.3. (a) "Fund" means the Airport Land Use Commission
40 Establishment Fund established pursuant to subdivision (b).

1 (b) The division may establish an Airport Land Use Commission
 2 Establishment Fund and allocate to that fund moneys under its
 3 control, including, but not limited to, existing grant funds and
 4 federal funds, if the division determines that the use of the moneys
 5 for the purposes of this section is consistent with state and federal
 6 law.

7 (c) When the division determines that funding is sufficient, the
 8 division shall inform counties that do not have an operating airport
 9 land use commission of the availability of funds for airport land
 10 use commission start-up costs, and may grant fund moneys for
 11 that purpose to counties that apply for funding.

12 (d) A county that accepts funding pursuant to this section shall
 13 establish an airport land use commission or designate an
 14 appropriate countywide body for that purpose within 12 months
 15 of that acceptance. The division shall not provide further funding
 16 pursuant to this section to any county that has accepted funding
 17 and failed to comply with this subdivision.

18 SEC. 11. Section 21679.5 of the Public Utilities Code is
 19 amended to read:

20 21679.5. (a) ~~Until June 30, 1991, no~~ No action pursuant to
 21 Section 21679 to postpone the effective date of a zoning change,
 22 a zoning variance, the issuance of a permit, or the adoption of a
 23 regulation by a local agency, directly affecting the use of land
 24 within one mile of the boundary of a public airport, shall be
 25 commenced in any county in which the commission or other
 26 designated body has not adopted an airport land use compatibility
 27 plan, but is making substantial progress toward the completion of
 28 the airport land use compatibility plan.

29 ~~(b) If a commission has been prevented from adopting the airport~~
 30 ~~land use compatibility plan by June 30, 1991, or if the adopted~~
 31 ~~airport land use compatibility plan could not become effective,~~
 32 ~~because of a lawsuit involving the adoption of the airport land use~~
 33 ~~compatibility plan, the June 30, 1991, date in subdivision (a) shall~~
 34 ~~be extended by the period of time during which the lawsuit was~~
 35 ~~pending in a court of competent jurisdiction.~~

36 ~~(c) Any action pursuant to Section 21679 commenced prior to~~
 37 ~~January 1, 1990, in a county in which the commission or other~~
 38 ~~designated body has not adopted an airport land use compatibility~~
 39 ~~plan, but is making substantial progress toward the completion of~~
 40 ~~the airport land use compatibility plan, which has not proceeded~~

1 to final judgment, shall be held in abeyance until June 30, 1991.
2 If the commission or other designated body adopts an airport land
3 use compatibility plan on or before June 30, 1991, the action shall
4 be dismissed. If the commission or other designated body does not
5 adopt an airport land use compatibility plan on or before June 30,
6 1991, the plaintiff or plaintiffs may proceed with the action.

7 (d)

8 (b) An action to postpone the effective date of a zoning change,
9 a zoning variance, the issuance of a permit, or the adoption of a
10 regulation by a local agency, directly affecting the use of land
11 within one mile of the boundary of a public airport for which an
12 airport land use compatibility plan has not been adopted by June
13 30, 1991, shall be commenced within 30 days of June 30, 1991,
14 or within 30 days of the decision by the local agency, or within
15 the appropriate time periods set by Section 21167 of the Public
16 Resources Code, whichever date is later.

17 SEC. 12. No reimbursement is required by this act pursuant
18 to Section 6 of Article XIII B of the California Constitution because
19 a local agency or school district has the authority to levy service
20 charges, fees, or assessments sufficient to pay for the program or
21 level of service mandated by this act, within the meaning of Section
22 17556 of the Government Code.