

## Chapter 13

### AIR SERVICES ENHANCEMENT

Original House Bill No. 53

AN ACT relating to administration of government; transferring the air services financial aid program to the Wyoming aeronautics commission as specified; providing appropriations; modifying requirements of the program; transferring funds; transferring a position; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 9-12-701 and 9-12-702 are amended and renumbered as 10-3-601 and 10-3-602 to read:

#### ARTICLE 6 AIR SERVICES FINANCIAL AID

**~~9-12-701-10-3-601.~~ Wyoming air services enhancement; legislative findings; Wyoming aeronautics commission authority to contract for services; requirements.**

(a) The legislature finds that an adequate and comprehensive system of air service ~~between-in~~ Wyoming ~~airports and airports located outside the state~~ is vital for economic development within Wyoming. Competition among air service providers within the state is virtually nonexistent and, without competition, services will remain limited and unreliable and high air fares will remain a major impediment to use of air services by Wyoming residents and businesses. ~~Peak air traffic and enplanements in Wyoming occurred when two (2) air carriers served the state in years 1993 and 1994. Further, airports in the state receive federal airport improvement program funds and, based upon enplanements in calendar year 2002 several commercial airports in the state are in danger of losing one million dollars (\$1,000,000.00) each, annually, if enplanements at the airports drop below ten thousand (10,000) for the year.~~

(b) The Wyoming ~~business council~~ aeronautics commission may enter into agreements to provide financial assistance to persons doing business or who will do business in the state, to economic development organizations within the state, to joint powers boards or to other entities formed to provide for enhanced air service to communities in Wyoming that have or are seeking commercial air service, for the enhancement of air services in the state conditioned upon contractual assurances that specified benefits will accrue to the state through increased air traffic and enplanements, ~~including~~ Benefits accruing to the state shall include, but not be limited to, increasing the minimum number of enplanements at airports facing a possible loss of federal airport improvement program funding, increasing ridership between passenger enplanements at commercial airports in Wyoming, and increasing fre-

quency or sustaining flight operations from commercial airports in Wyoming to regional airport hubs, lowering airfares for air passengers and increasing the number of routes flown within the state. The ~~council commission~~ shall consult with counties, cities, towns, joint powers boards, airport boards or other entities pursuing air service enhancement before entering into agreements ~~with persons~~ to provide air service enhancement and shall require ~~matching local~~ funds for the provision of air service enhancement grants. The amount of local funds required for the provision of enhancing air services shall be determined by the commission, taking into account the types of service for which grants are approved, the diverse characteristics of the communities to which air service is contracted for and other considerations examined by the commission.

(c) ~~The council commission has primary responsibility and may consult with or delegate to the aeronautics division of the Wyoming department of transportation, Wyoming business council or other entities and enter into an agreement with the Wyoming aeronautics commission, as necessary, to develop criteria for bids and contracts for financial aid under this section.~~

(d) All applications for financial aid under this section shall be submitted to the aeronautics commission, ~~which shall investigate and prepare a report concerning the advisability of approving the proposed financial aid for the applicant and concerning any other factors deemed relevant by the aeronautics commission. After consideration of the report, the council, in consultation with~~ The aeronautics commission shall approve or deny the application. The applicant shall be promptly notified of the decision. In making the decision to approve or deny the application, the ~~council commission~~ shall give priority to an applicant whereby:

(i) The applicant can provide assurances that the enterprise has a reasonable chance of success and will achieve benchmarks specified by the applicant;

(ii) Participation by the ~~council commission~~ is necessary to the success of the enterprise because funding for the enterprise is unavailable in the traditional capital markets, or because funding has been offered on terms that would substantially hinder the success of the enterprise;

(iii) The applicant will use the proceeds of the financial assistance provided under this section only to secure or enhance air services within the state or to market or promote the service for which the financial assistance is granted;

(iv) The financial assistance has the reasonable potential in the opinion of the aeronautics commission to create a substantial amount of air travel originating within the state;

(v) The applicant has already made or is contractually committed to make a substantial financial and time commitment to the enterprise and local ~~matching~~ funds are provided to secure a financial grant under this section, in an amount determined by the commission;

(vi) The applicant will not pledge financial aid granted pursuant to this section as collateral for any other purpose than is specified in the contract between the applicant and the ~~council-commission~~;

(vii) The applicant will provide reasonable assurances that within a time specified by the ~~council-commission~~, the state shall benefit from its investment by means of commercial airports having sufficient enplanements to retain or reestablish eligibility for federal airport improvement program funding and that commercial airports in the state will receive increased revenues from established passenger facility charges as a result of increased enplanements by the enterprise or from other benefits.

(e) Before granting any financial aid under this section, the ~~council commission~~ shall enter into an agreement with the applicant providing for a benefit to the state which is commensurate with the level of risk and amount of the financial aid, using the criteria specified in paragraph (d)(vii) of this section. The attorney general shall review and approve the contract before the ~~council-commission~~ enters into any agreement under this section.

(f) As used in this article, "~~council-commission~~" means the Wyoming ~~business-council-aeronautics commission~~ created by W.S. ~~9-12-103 10-3-101.~~

(g) The Wyoming ~~business-council-aeronautics commission~~ will establish benchmarks for determining the success of the program.

**~~9-12-702-10-3-602.~~ Wyoming air services enhancement account.**

(a) The ~~council-commission~~ shall establish and maintain a Wyoming air services enhancement account under this article to provide the financial aid specified in W.S. ~~9-12-701 for ventures 10-3-601~~ to enhance air services within the state. Any funds deposited in the account shall only be expended by the ~~council-commission~~ as provided in W.S. ~~9-12-701 10-3-601~~ and to administer this article.

(b) Any funds appropriated by the legislature to the account established under subsection (a) of this section shall not lapse as provided by W.S. 9-4-207(a), but shall revert to the ~~transportation enterprise fund as provided by W.S. 9-12-103(c) or upon a finding by the council that no applicant is able to provide the assurances required by W.S. 9-12-701 by June 30, 2006, whichever occurs earlier~~ air services enhancement account within the highway fund on September 30, 2007.

(c) The ~~council-commission~~ shall report to the joint minerals, business and economic development interim committee, the joint appropriations interim committee and the air transportation liaison committee no later than September 30, ~~2003 and 2004-2005~~, with respect to ~~any applications it has received the status of the program~~ under W.S. ~~9-12-701 10-3-601~~, including any actions taken and funds expended in consideration of, and pursuant to, any contract entered into under W.S. ~~9-12-701 10-3-601~~. If any funds are expended under a contract prior to June 30, 2006, the ~~council-commission~~ shall also report no later than that date and annually thereafter with respect to the performance of any recipient of funds under the contract.

**Section 2.**

(a) There is appropriated three million dollars (\$3,000,000.00) from the general fund to the Wyoming air services enhancement account to implement this act.

(b) There is transferred from the Wyoming business council one hundred sixty thousand five hundred fifty-two dollars (\$160,552.00) to the air service enhancement account for administration of the program authorized in section 1 of this act.

(c) There is appropriated from the general fund to the air services enhancement account, fifty-four thousand four hundred forty-eight dollars (\$54,448.00) for administration of the program authorized in section 1 of the act.

**Section 3.** There is transferred one (1) full-time equivalent position from the Wyoming business council to the Wyoming department of transportation, aeronautics division. This full-time equivalent position shall be appointed by the commission to assist in the implementation of and to carry out the provisions of this act. The appointment may be made as a contract employee or an at-will employee. After consideration and planning of the most effective way to implement the provisions of this act, the commission may choose to utilize funding for part-time employment of support personnel or consulting services and other additional assistance.

**Section 4.** This act is effective July 1, 2005.

Approved February 17, 2005.