

County could not bar airlines from Paine Field

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A just-released legal report says that Snohomish County has little power to keep commercial air service out of Everett-based Paine Field.

The question of bringing scheduled commercial flights to Snohomish County Airport has become less contentious of late, largely because the county's economy is the strongest it's been in years, so there's little economic motivation, and because no air carriers are pushing to operate out of the Paine Field airport.

Late next month, on Nov. 30, a panel convened by Snohomish County Executive Aaron Reardon is to issue its final findings about a complex document called the Mediated Role Determination (MRD), which opponents of airport expansion have considered an important lever for keeping commercial carriers away from Paine Field. After that, the Snohomish County Council will consider the MRD and decide if it needs any changes.

The MRD is a 1978 agreement between the county and citizen groups, later amended, that at the time sought to limit aircraft usage at Paine Field. The county council has not taken a formal position for or against scheduled air service at Paine Field.

A county-funded study, released in 2004, concluded that the population of 1.1 million in the "catchment area" surrounding Paine Field generates 7,000 people boarding aircraft a day, nearly all of those at Seattle-Tacoma International Airport. The report suggested that commercial air carriers might be interested in starting nonstop service from Everett to San Francisco or Phoenix.

This study touched off a heated debate about business interests wanting air service. Local cities, especially Mukilteo and Edmonds, oppose the air service on the grounds that it will generate noise.

But in a 32-page report issued Oct. 12, Denver attorney Peter Kirsch advises that the county's position on the airport development won't be as critical as some might have thought. Under Federal Aviation Administration regulations, any entity operating a "public-use" airport, such as Paine Field is, has little power to prevent any air carrier from starting air service there, he said.

In fact, were the county to opt against commercial service at Paine Field, it would have only three options: not maintaining an Airport Operating Certificate, asking the Federal Aviation Administration to grant a "mandatory restriction," or asking for relief from Congress, according to Kirsch's analysis.

But the county can't let its certificate lapse, because that would prevent Boeing Commercial Airplanes from using the airfield to deliver aircraft and receive parts for Boeing's nearby plant. The FAA has not granted a single restriction since it was given that power by Congress in 1990, and congressional relief for a single airport is very difficult to obtain and often temporary, according to the report.

Snohomish County Executive Director Peter Camp, one of three staffers reporting directly to Reardon, said the legal opinion is clarifying what the county can and can't do.

"If Lufthansa were tomorrow to say they wanted to start international service from Paine Field, and they're willing to pay for a new terminal and all the associated improvements, there's not much we could do. Federal law limits our ability to say no," Camp said.

However, he added that county opinion can have some bearing on airline executives' decisions.

"There's nothing that says we as a community can't say, 'This is how we want our airport to be used,'" he said. "Some airlines don't want to go where they're not wanted."

Camp said the legal report may help proponents of commercial air service, in particular a group called the Private Enterprise Coalition, and opponents, including a coalition of several neighbor cities called Save Our Communities, to reconsider their stances as they better understand the applicable laws.

"I don't think it changes anything. It does inform the discussion, provides people with more detail, more education," he said.

In some ways the discussion is moot, because no air carriers have expressed more than passing interest in operating a commercial service out of Paine Field. Horizon Air did briefly consider the possibilities in the 1990s, but later dropped the idea.

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