

1934

## Form and Organization of the State Aeronautical Regulatory Body

A.C. Blomgren

Follow this and additional works at: <https://scholar.smu.edu/jalc>

---

### Recommended Citation

A.C. Blomgren, *Form and Organization of the State Aeronautical Regulatory Body*, 5 J. AIR L. & COM. 585 (1934)  
<https://scholar.smu.edu/jalc/vol5/iss4/11>

This Symposium is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

# FORM AND ORGANIZATION OF THE STATE AERONAUTICAL REGULATORY BODY

A. C. BLOMGREN\*

## *Introduction:*

The past year, with its CWA and FERA Airport Programs, has, I believe, demonstrated very clearly the need for state aeronautical regulatory bodies. Surely those states with such bodies, who had made a survey of conditions and knew the requirements of the state for air navigation facilities, and who had a well planned state airways system, either partially constructed or at least projected, were able to make a more judicious use of the federal funds at their disposal.

Again, every aircraft that is worthy of the name is potentially an interstate vehicle, and it is exceedingly difficult to do any great amount of flying without crossing one or more state boundaries; hence the need for uniformity in all matters pertaining to regulation, airport rating, air trail signs or airport markers, airport rules and regulations and air traffic rules.

Not only must we have uniformity in all matters pertaining to aeronautics but we must have flexibility of control. The legislatures should not enact rules and regulations into statute law, but should rather enact legislation which gives some person or persons discretionary powers, with proper safeguards, in order that the regulations may be issued or altered from time to time, between sessions of the legislature if necessary to fit the changing needs.

Idaho in 1931 adopted the following paragraph which is written into the law:

Sec. 21-203 I. C. A.

"It is hereby declared that the policy, principles and practices established by the United States Air Commerce Act of 1926, and all existing amendments thereto, are hereby adopted and extended and made applicable to cover all air traffic in this state, so far as not covered by Federal law at any time."

The above paragraph may or may not be applicable in each state. However, some form of this policy of uniformity and flexibility could be and should be enacted by each state.

Before stating the form of organization which might be

---

\*Airways Engineer, State of Idaho.

adopted by the several states for aeronautical control, let us examine into the duties of the office. From experience it has been learned that a State Aeronautical Department or Commission, as the case may be, must justify its existence by rendering a public service.

It must be prepared to promote aeronautics within the state in a number of ways, some of which are listed as follows:

- (1) By creating air-mindedness and enthusiasm as well as the desire to use aviation in all its branches, either for the carrying of mail, transportation of persons or property, aerial surveys, crop dusting, forest re-seeding, and many other uses. This can be done partially by the appearance of its officials at public gatherings, civic organizations, schools, etc., and informing the public on all of the above activities.
- (2) By supplying of technical and financial assistance in the establishment of aircraft landing facilities.
- (3) By designing and assisting in the construction of a state airways system.
- (4) By cooperating in the construction of a uniform system of air marking.
- (5) By setting up minimum limits of safety for air navigation facilities.
- (6) By cooperating in the establishment of radio communication and weather reporting purposes, such system to work in conjunction with the U. S. Airways Radio System, and to supplement it in sections of the state removed from Federal Airways.
- (7) By regulating flying activities and policing airports and landing fields.
- (8) By publishing maps and bulletins and acting as a clearing house for general aeronautical information.
- (9) By cooperating with the various other state departments for furnishing advice on aeronautical matters, transportation, aerial phototopographic surveys for highway location, irrigation or drainage, and forest patrol of the state lands.

#### *Financing:*

In order to accomplish the above objectives, it is very apparent that the state organization must be adequately financed. The ideal situation, of course, would be to have revenue measures that would balance with the activity involved or the service rendered. It is very evident that a certain amount expended in necessary and needed aeronautical facilities promotes a feeling of good will as well as bringing additional activity. We might consider four sources from which revenue might be expected for the operation of the department. They are as follows:

- (1) Direct legislative appropriation.
- (2) License fees for the registration of airplanes similar to the registration of motor vehicles and in lieu of personal property tax.
- (3) Gasoline tax on aviation gasoline.
- (4) Federal participation along the lines of the Federal Highway Act.

It is not necessary here to go into the merits of any one of these different methods for raising revenue as each state has its own problems in this respect and those measures which might apply in one state would not apply in another.

I do wish, however, to point out two methods of taxation used by several states which are not only a burden to the industry but are also grossly unfair. The first is that of assessing planes and equipment at values far in excess of actual worth. The second is that of placing a tax on aviation gas, where the proceeds of such tax go toward the administration of the State Highway Department.

The first method, while not a direct tax like the gas tax, might be eliminated in favor of a license fee, the proceeds from which could be diverted to the State Aeronautics fund instead of the County General fund.

The second, the gas tax, should by all means be diverted from Highway Construction to Airway Construction.

#### *Necessity for State Governing Body:*

If we are to expect in the future Federal participation on airport and airway construction there must be a state organization to handle such funds. Those states which already had an active organization were much better prepared to take advantage of the past Federal participation through the CWA and FERA than those without such organization.

We find a tendency of the Federal Government toward more state responsibility not only in the establishment of airways but in the regulation of air traffic and the general promotion of aeronautics throughout the state. Their attitude is shared in a measure by the individual commercial operators who conduct non-scheduled service within the state generally to the main or Federal airways.

#### *Form of Organization:*

A suggested form of organization could be established with very little additional expense to the state government with a personnel of three or more, as the state activities warrant. The act-

ing head or director would report to the commissioners, in the case of a commission form of government, or direct to the governor, in case of the cabinet form. Close liaison with the Bureau of Air Commerce could be maintained by this director and it is presumed that the Bureau of Air Commerce, through its various representatives, could consent to act in an advisory capacity on all policies established by the state department. The state tax collection department and the state department of law enforcement, through its state police, special deputies, or airports managers so deputized, could act as the tax or license fee collection department with no additional personnel in these state departments. On the other hand, cooperative assistance could be rendered by the Department of Public Works or the Highway Department, who could furnish technical advice in the construction of landing facilities through its highway engineers, and construction equipment through its highway maintenance organization. A secretary could be appointed to take care of all correspondence, maps, bulletins, and general aeronautical information. An assistant director could act with the director in controlling regulation, construction of landing facilities and general promotional work.

The above organization in minimum would add only three persons to the state pay roll and could efficiently handle aviation activities in each state.

*Conclusion:*

It is not intended in this paper to support a state organization which is a duplicate of the duties enforced by the Bureau of Air Commerce. Rather it is our intention to point out a form of organization which might be used to supplement the work of the Bureau of Air Commerce, one that will lighten the burden of policing and enforcement as well as assist them in obtaining statistics in regard to all aviation activities and to assist in all matters pertaining to the building up of air navigation facilities, more complete regulation within the state, and all other matters tending to reduce accidents or safety measures.

It is felt that the most important duties to be performed by the state organization are uniformity and flexibility of its laws as well as uniform standards of construction of air navigation facilities. Airport rating regulations, whether state or national, should be uniform in order that a pilot flying from one state to another may know that if the airport carries a certain rating he at once

knows what to expect in the way of size and facilities available. It is also felt that more effort should be expended in a uniform system of airway markings on the order of sky trail markers as well as airport boundary markers.

It might also be advisable to consider, at this particular time, that class of pilot or student who wishes to experiment, not only with the various ground school subjects, but to construct and fly airplanes of the particular design which do not meet with or have not received the Federal approved type of certificate. In our state where we adopt the standards of the Bureau of Air Commerce and make the law read that only government licensed aircraft are permitted to fly, we are accused of stifling incentive and invention of new types which might be brought out if such laws were not in effect. I am open-minded on this last question and would like here some discussion, in that I have before me at home a petition by a number of pilots as well as those who wish to experiment requesting that the state law be so amended to permit this experimental work.