

## Powers of the Aeronautics Commission

The purpose of this document is to make known the authority of the Aeronautics Commission according to the laws of the State of South Dakota. The Commission may periodically review these powers and evaluate their performance, with assistance from DOT staff, in carrying out these powers. In consideration of needed changes, either legislative, process, or administrative, the Commission will need to follow state procedure requirements for making changes.

The Aeronautics Commission exercises the following powers:

### A. Advisory Functions

1. Performs advisory functions as defined in SDCL 1-32-1 with respect to programs associated with the Aeronautics Commission. *SDCL 1-44-11(1)*.
2. Provides advice and expertise to state agencies regarding the purchase, transfer and disposition of state owned and operated aircraft, including those owned or operated by any state institution. *SDCL 50-2-1.1*.
3. Reports to the Governor each year concerning commission proceedings and any recommendations pertaining to its affairs. *SDCL 50-2-4*.

### B. Funding Functions

4. Performs special budgetary functions, as defined in SDCL 1-32-1, and provided for by SDCL 50-4-12 to 50-4-17, 50-2-12, 50-7-10, 50-7-15 to 50-7-19, and chapter 50-4. *SDCL 1-44-11(2)*.
5. Approves expenditure and disbursement of moneys appropriated and available for matching purposes and for the construction, development, operation, marking, and maintenance of airports, and air navigation facilities. *SDCL 50-2-12*.
6. Budgets, allocates, disburses and expends state aeronautics funds for the following purposes:
  - Construction, development, lighting, marking, and maintenance of publicly owned airports;
  - Lighting, marking and maintenance of runways, taxiways and parking areas of privately owned and operated airports licensed by the commission if the commission determines the airports are operated in accordance with the law and available to the general public for the taking off and landing of aircraft;
  - Matching of funds made available by the United States, this state, or any political subdivisions of this state for the purchase of sites for airports, and for the construction, lighting, and marking of such airports in amounts as the commission may determine;
  - Paying of salaries, office expenses, traveling and other expenses of the commission and the department staff to carry out the responsibilities defined in SDCL chapter 50-2.  
*SDCL 1-44-11(2);50-4-14; 50-4-16.*

7. Allocates a portion of aircraft fuel tax collected pursuant to SDCL 10-47B-1 and -4 to each eligible airport. SDCL 50-4-16.
8. Authorizes the department to enter into financing agreements with governmental entities to finance airport improvements from moneys available to the commission; and receive reimbursement and interest on financed amounts. SDCL 50-7-15; 50-7-16.
9. Withholds future funding from local zoning authorities that do not enact proper zoning in relation to airports. SDCL 50-10-6.1.

### **C. Regulatory Authority Over Airports and Other Air Navigation Facilities**

10. Fosters air commerce and supervises the aeronautical activities and facilities within the state, including supervision and control over airports, air marking, air beacons, and all other air navigation facilities. *SDCL 50-2-5.*
11. Prescribe and provide forms for reporting to the department the number of gallons of aircraft fuel sold in South Dakota to retailers and consumers at wholesale. *SDCL 50-4-12.*
12. Approves public airports prior to use, and issues certificates of approval, and may impose conditions on approval. *SDCL 50-5-1; 50-5-3; 50-5-6; ARSD 70:02:04:02; 70:02:04:06; 70:02:04:07; 70:02:04:11.*
13. Approves private airports located within two miles of the nearest boundary of any approved public airport and issues certificates of approval. *SDCL 50-5-1; 50-5-3; ARSD 70:02:04:06.*
14. Reviews and approves applications for temporary field permits. *ARSD 70:02:04:17.*
15. Orders the closing of airports or other air navigation facilities until compliance with requirements established by the commission. *SDCL 50-5-7.*
16. Inspects or has its agent inspect any premises, buildings and other structures where airports or other air navigation facilities are operated. *SDCL 50-5-8.*
17. Waives airport licensing requirements imposed by administrative rule. *ARSD 70:02:04:19.*
18. Reviews and approves applications for construction or alteration of structures of a certain height or in proximity to airports or other air navigation facilities. *SDCL 50-9-1; ARSD 70:02:03:20.*
19. Institutes court actions to prevent, restrain, correct or abate violations of airport zoning statutes, regulations, orders or rulings. *SDCL 50-10-27.*
20. Prescribes identification items to be included on the decals issued to registered aircraft. *SDCL 50-11-10.*
21. Prescribes forms relating to the assessment, collection and return of additional original registration tax imposed under SDCL 50-11-19. *SDCL 50-11-21.*

### **D. Quasi-Legislative Functions**

22. Performs quasi-legislative and quasi-judicial functions, as defined in SDCL 1-32-1, and provided for by SDCL chapters 50-2, 50-5, 50-9, 50-10, 50-11, 50-12, and 50-13. *SDCL 1-44-11(3).* (Repeated under hearing of quasi-judicial functions).

23. Adopting, repealing, and modifying administrative rules as provided by law. The Aeronautics Commission is authorized to promulgate rules on the following subjects:
- Design, layout, location, construction, operation, equipping, and use of all public airports; *SDCL 50-2-2.1(1); 50-2-13.*
  - Establishment, location, maintenance, and operation of all air markings, air beacons and other navigation facilities; *SDCL 50-2-2.1(2); 50-2-13.*
  - Operation or aerial applicators or operators including minimum standards, class definitions, and safety requirements; *SDCL 50-2-2.1(3); 50-2-13.*
  - Fees for airport approval applications. *SDCL 50-5-3.*
  - Requirements for construction or alteration of structures of a certain height or in proximity to airports or other air navigation facilities. *SDCL 50-9-2.*
  - Assessment, collection and return of the additional original registration tax imposed by *SDCL 50-11-19. SDCL 50-11-21.*
  - Aircraft dealer licensing. *SDCL 50-12-20.*

#### E. Quasi-Judicial Functions

24. Performs quasi-legislative and quasi-judicial functions, as defined in *SDCL 1-32-1*, and provided for by *SDCL* chapters 50-2, 50-5, 50-9, 50-10, 50-11, 50-12, and 50-13. *SDCL 1-44-11(3)*. (Repeated under heading of quasi-legislative functions)
25. Decides appeals concerning renewal of aircraft dealer licenses when dealers fail to meet the sale or brokerage requirements of *SDCL 50-12-14. SDCL 50-12-14; ARSD 70:02:04:05.*
26. Holds hearings and issues decisions on the revocation, suspension or nonrenewal of aircraft dealer licenses. *50-12-17.*
27. Issues decisions on petitions for declaratory rulings concerning the applicability of a statutory provision relating to the powers of the commission or of any rule or order of the commission. *ARSD 70:02:01:03.*
28. Holds hearings on applications for construction or alteration of structures deemed by the commission to be a hazard to air navigation, a public danger or in violation of rules issued by the commission. *SDCL 50-9-3; 50-9-4.*
29. In the case of conflicting jurisdiction between the commission and a political subdivision over the erection of structures in relation to an airport or other air navigation facility, the commission may, after a public hearing, overrule or modify zoning rules and regulations adopted by the political subdivision or its airport zoning board. *SDCL 50-9-10.*

#### F. Conflicts of Interest

30. Authorize commission members to derive a direct benefit from a contract. *SDCL 3-23-3.*

**G. Miscellaneous**

31. Allow the operation of its aircraft for other departments of state government.  
*SDCL 50-2-15.*