



RURAL COUNTY REPRESENTATIVES
OF CALIFORNIA

June 11, 2024

The Honorable Lori Wilson
Chair, Assembly Transportation Committee
1020 N Street, Suite 112
Sacramento, CA 95814

**RE: Senate Bill 1193 (Menjivar) – OPPOSE
As Amended May 16, 2024**

Dear Chair Wilson:

On behalf of Rural County Representatives of California (RCRC), we respectfully oppose Senate Bill 1193 (Menjivar). RCRC is an association of forty rural California counties and the RCRC Board of Directors is comprised of elected supervisors from each member county.

SB 1193 may cause significant negative impacts to rural airports. Rural airports are critical economic, emergency response, and national security infrastructure, and the loss of these facilities is especially devastating to rural communities. While RCRC appreciates provisions amended into the bill that create a county offramp, these provisions were decided without the input of our organization or other relevant local government associations. The offramp provisions, as amended, create new litigation risks, and set up potential decision-making conflicts between counties and cities, or counties and local agencies—situations where a county board does not have direct authority over the general aviation airport in question.

Rural general aviation airports are vital infrastructure for our communities. Like other types of ports, they serve as necessary facilities for bringing in important goods and services, including emergency and specialty medical services. They allow for a variety of local economic activity, from agricultural treatment to aerial surveys. And, crucially, they serve as a base for response and evacuation in cases of natural disaster and other emergencies. The difficult terrain and limited roadway infrastructure in several of California's rural counties means that without their airports, many of these counties' essential needs will not be met.

This bill threatens the viability of rural airports by directing them to prohibit the sale of the one commercial standard for aviation fuel, low-leaded 100 octane gasoline. This fuel is not just the only type compatible with the entirety of the piston-engine airplane fleet flown in our counties, its sale serves as a major revenue source for several airports which

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rely on fuel sales to stay operational. While rural counties appreciate the public health imperative to eliminate leaded fuel in transportation gasoline, sufficient alternatives are not available on the market at this time. As other bill opponents have pointed out in their opposition letters, there is currently no airport commercially selling unleaded aviation gasoline, nor is there an unleaded gasoline product on the market that meets Federal Aviation Administration (FAA) safety standards as well as industry standards.

Further, the FAA Reauthorization Act of 2024 explicitly prohibits all airports that sold low-leaded aviation gas at any point in 2022 from restricting or prohibiting the sale of that same fuel until the end of 2030, unless the FAA validates and certifies an unleaded alternative before then. Bill supporters argue that this language is not an explicit prohibition, and not in conflict with SB 1193. Not only is the federal prohibition clean and unambiguous, supporting documentation from the Congressional record makes this point explicit. Specifically, the final section-by-section analysis from the House Committee on Transportation and Infrastructure clearly states:

This section requires that airports that offered 100-octane low lead aviation gasoline for sale in 2022 to continue offering such gasoline for sale until the earlier of 2030 or the date on which a FAA-certified unleaded aviation gasoline alternative can be made available for purchase or use by general aviation aircraft operators at airports subject to certain conditions. Any airport violating this grant assurances will be assessed a civil penalty of not more than \$5,000 per day the airport fails to comply with the grant assurance.¹

Until such time that the FAA certifies an unleaded alternative, this bill puts California airport operators in the unenviable position of having to violate state law in order to comply with federal law, so as to not be fined the penalty of \$5000 a day; or to violate federal law by complying with state law. Legal precedent² suggests that local airport authorities will be required to first follow state law³, exposing airport operators not only to a hefty daily civil penalty, but to the threat of litigation from negatively affected parties prohibited from using the commercial fuel standard. Rural airport operators, along with the rural county governments that support them, do not have the resources to engage in litigation about the applicability of conflicting laws.

While RCRC appreciates that SB 1193 was amended to allow counties to delay the requirement by a year for an unleaded gas switch with a vote of their boards of supervisors, this is not an appropriate mechanism to address dueling federal/state mandates. This provision presupposes a relationship between county governments and local general aviation airports that does not always exist. Some general aviation airports

¹ U.S. House of Representatives Committee on Transportation and Infrastructure, FAA Reauthorization Act of 2024 Final Section-by-Section analysis (H.R. 3935), p. 50

² *Lockyear v. City and County of San Francisco*, 33 Cal 4th 1055

³ Cal. Constitution Art III Sec. 3.5

are governed by boards tied to city authorities, or boards largely independent from their local government altogether. Additionally, the provision creates an unusual standard for making an official finding. Typically, boards of supervisors do not make findings for exercising discretion at a “clear and convincing” evidentiary standard. This is a standard more appropriate for criminal litigation than for making local findings.

But even at a more common standard, like a substantial evidence standard, county boards are not aviation experts, and certainly not aviation fuel experts. For a board of five elected officials to make a determination of such a technical nature only invites legal challenges from the parties negatively impacted by any decision made by the board. Even if provided expert information to consider, it is fair to say that several county boards will be threatened by litigation regardless of how they ultimately find. Litigants may also argue that a discretionary decision of the board, including because it affects the compliance of a local airport agency or authority with state and/or federal law on fuel quality, is ultimately a decision subject to environmental review.

The most curious part of this bill is that while it places local airports in financial jeopardy and local governments at significant litigation risk, its timeline is only slightly more ambitious than the currently ongoing federal process for certifying an unleaded alternative. That federal process will answer several concerns, from the true safety and usability of an unleaded alternative, to not requiring conversion until fuel manufacturers have sufficient supply to meet a national demand. The federal process achieves the same policy objectives, but in an order and with an approach that does not ground fleets or shutter airports. We request that the members of the Assembly Transportation Committee consider the strong and clear statement by Congress about their preemption of this legislation, and the FAA unleaded alternative process currently underway (EAGLE)⁴, and not advance this legislation at this time.

Sincerely,


Siddharth Nag

cc: The Honorable Caroline Menjivar, Member of the California State Assembly
Members of the Assembly Transportation Committee
Farra Bracht, Chief Consultant, Assembly Transportation Committee
Daniel Ballon, Consultant, Assembly Republican Caucus

⁴ FAA “Eliminate Aviation Gasoline Lead Emissions (EAGLE).” Found at www.faa.gov/unleaded