

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 470
SENATE BILL 261

AN ACT TO AUTHORIZE AND EMPOWER BLOWING ROCK, BOONE AND
WATAUGA COUNTY TO JOINTLY ESTABLISH AND MAINTAIN AN
AIRPORT AND TO CREATE THE WATAUGA AIRPORT COMMISSION.

The General Assembly of North Carolina do enact:

Section 1. Airport or landing field for the purposes of this and the Sections following is defined as any plot of land, water, surface or structure formally set aside and designated as a place where aircraft may land or take off.

Sec. 2. The governing bodies of the Town of Blowing Rock, of the Town of Boone and of the County of Watauga are hereby authorized to jointly acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft without the limits of said towns and within the limits of said county, and may use for such purpose or purposes any properties suitable therefor that are now or may at any time hereafter be jointly owned or controlled by said towns and county.

Sec. 3. Any lands, acquired, owned, controlled, or occupied by said towns and Watauga County, for the purposes enumerated in Section 2 hereof, shall and are hereby declared to be acquired, owned, controlled and occupied for a public purpose, and said towns and the County of Watauga shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public purpose.

Sec. 4. Private property needed by the said towns and Watauga County for an airport or landing field may be acquired by gift or devise or shall be acquired by purchase if said towns and Watauga County are able to agree with the owners on the terms thereof, and otherwise by condemnation, in the manner provided by law under which the said towns and county are authorized to acquire real property for public purposes, other than street purposes, or if there be no such law, in the manner provided for and subject to the provisions of the condemnation law. The purchase price, or award, for property acquired for an airport or landing field may be paid for by appropriation of monies available therefor, or by the application of any funds derived by either of said towns or by Watauga County from the sale of any lands now or heretofore or hereafter owned for airport or landing field purposes or other purposes, or wholly or partly from the proceeds of the sale of bonds of either of said towns or Watauga County as the governing bodies of such towns and Watauga County shall determine.

Sec. 5. The power to acquire lands by condemnation herein granted to the said towns and county for the purpose of such airport or landing field shall embrace the power to acquire by condemnation any dwelling, yard, orchard, garden, kitchen, burial ground, graveyard or cemetery located or situate upon the lands found necessary to be acquired for such purpose; and in the event there are graves located upon such lands which may be necessary to be acquired by condemnation, it shall be lawful for said towns and county, after thirty (30) days' notice to the surviving husband or wife, or next of kin of the deceased buried therein, or the person in control of such graves, if any are known, and if not known, then after publishing a notice once a week for four (4) weeks in a newspaper published in Watauga County to open any such graves, and to take therefrom any dead body, or part thereof buried therein, and anything interred therewith, and to remove and re-inter same in some other cemetery or suitable place in the same county to be selected by the next of kin, or the welfare officer of the county or by the Clerk of the Superior Court of said county in the order named. Due care shall be taken to do said work in a proper and decent manner, and, if necessary, to furnish suitable coffins or boxes for re-interring said remains. Due care shall also be taken to remove all tombstones and other markers from said graves, and to protect and replace all such tombstones or other markers so as to leave the new grave in as good condition as the former one. All of said work shall be done under the supervision and direction of the welfare officer of the county, if one, or his representatives, but if there is no welfare officer, then under the supervision and direction of the Clerk of the Superior Court of said county, or his representatives. All the expense connected with said work, including the actual expense of one of "next of kin" in attending to same, if one does attend, shall be borne by the said towns and Watauga County doing or causing same to be done.

Sec. 6. The governing bodies of said towns and Watauga County and each of them are hereby authorized to appropriate and use from the net proceeds derived from the operation, by either of said towns or Watauga County, of any public utility, or from funds derived from any source other than ad valorem taxes, sums sufficient to carry out the provisions of this Act as to the establishment and maintenance of any airport in such proportion and upon such equal basis as may be determined upon by a joint commission to be appointed by the governing bodies of the said towns and Watauga County. Provided, nothing herein shall be construed to permit the governing bodies of said towns or Watauga County to issue bonds under the provisions of this Act without a vote of the people.

Sec. 7. There is hereby created and established the Watauga County Airport Commission, to be composed of six members, as follows: The Town of Blowing Rock shall be entitled to appoint two members on said Commission, one of which shall serve for a term of two years, and the other of which shall serve for a term of four years, and thereafter their successors shall also be appointed by the governing authority of the Town of Blowing Rock and shall serve for a term of two years each; the Town of Boone shall be entitled to appoint two members to serve on said Commission, one of which shall serve for a term of two years, and the other of which shall serve for a term of four years, and thereafter their successors shall also be appointed by the governing

authority of the Town of Boone and shall serve for a term of two years each; the governing authority of Watauga County shall be entitled to appoint two members on said Commission, one of which shall serve for a term of two years, and the other for a term of four years, and thereafter their successors shall be chosen for terms of two years each. The appointment of the members on said Commission as herein provided shall be made by a majority of the governing authorities of said towns and the governing authority of said Watauga County. The terms of office of said members of said Watauga Airport Commission shall run from the date of their appointments, and they shall hold office until their successors are appointed and qualified. Only a municipality or a county contributing in equal part to the establishment of an airport or airports shall be entitled to have representation in the membership of the Watauga County Airport Commission. Any county or municipality which desires to participate in the establishment of an airport or airports shall be entitled to have two members on said Watauga Airport Commission which shall be appointed in the same way and manner and for the same terms as those members appointed by the Towns of Blowing Rock and Boone and Watauga County as set forth above. The Watauga Airport Commission (referred to in this Act as "Commission") as to vacancies in its membership shall cause the same to be filled as follows: Upon the occurrence of any vacancy on said Commission said vacancy shall be filled within sixty (60) days after notice thereof by a majority of the governing body of the town, municipality or county which has a vacancy within its representation or membership on said Commission. Within thirty (30) days after the ratification of this Act the governing body of the Towns of Blowing Rock and Boone and of Watauga County shall appoint its representatives on said Commission who shall hold their offices until their successors shall be appointed in the manner hereinbefore set forth.

Sec. 8. The Commission as herein provided by the governing bodies of said towns and County of Watauga shall act in an administrative capacity and shall be vested with the following authorities and powers; and it is hereby authorized and empowered:

(a) To establish, construct, control, lease, maintain, improve, operate and regulate joint airports and landing fields; to have complete authority over any airport or landing field jointly acquired, established or constructed by said towns and County of Watauga represented on said board.

(b) (1) To adopt, repeal, amend, and readopt rules, regulations, laws and ordinances not inconsistent with this Act as amended, for its own government, management and operation; and

(b) (2) To adopt, repeal, amend and readopt rules, regulations, and ordinances with respect to traffic on and use of streets, alleys, driveways, roadways, parking areas, crosswalks, and safety areas (not included in the public road system of the State of North Carolina) located within the territorial limits of the lands comprising the Watauga County Airport, including by way of illustration but not in limitation of the authority herein granted, the establishment of routes of traffic, the regulation of speed, the location of parking areas, the regulation and prohibition of parking and standing in designated areas and on said streets, driveways, alleys and roadways, the prohibition of

obstruction thereof, the prohibition of vehicles and pedestrians on the aprons, ramps, taxiways, runways and other designated parts of the airport.

(b) (3) To adopt, repeal, amend and readopt rules, regulations and ordinances with respect to the use of the airport and its facilities by the public, including by way of illustration but not in limitation of the authority granted, the Terminal Building, the ramps, aprons, hangars, taxiways, runways, water plants and shops, and to prohibit the use of, occupation of, or trespass upon any part thereof.

(b) (4) All rules, regulations and ordinances adopted pursuant to the authority of this Section 8 shall be recorded in the proceedings of the Watauga County Airport Commission and a true copy of all such rules, regulations and ordinances, certified under the hand of the secretary and the seal of the Commission, shall be filed with the Board of County Commissioners of Watauga County, the Town Council of the Town of Blowing Rock and the Town Council of Boone.

(b) (5) The Watauga County Airport Commission shall cause to be posted at appropriate places on the Watauga County Airport notice to the public of applicable rules, regulations and ordinances pertaining to the Watauga County Airport.

(b) (6) To prescribe penalties for the violation of any rules, regulations or ordinance adopted pursuant to the provisions of this Section.

(b) (7) Any person violating any rule, regulation or ordinance adopted pursuant to Section 8 (b) (2) through (b) (6) inclusive shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of not exceeding fifty dollars (\$50.00) or imprisonment for not exceeding thirty (30) days.

(c) To lease (without the joinder in the lease agreements of the owning municipalities, and county, to wit, the Towns of Blowing Rock and Boone, and the County of Watauga) for a term not to exceed forty (40) years, and for purposes not inconsistent with the grants and agreements under which the said airport is held by said owning towns and county, real or personal property under the supervision of or administered by the said Commission.

(d) To contract with persons, firms or corporations for terms not to exceed ten (10) years, for the operation of airline-scheduled passenger and freight flights, non-scheduled flights, and any other airplane activities, not inconsistent with said grant agreements under which the airport property is held by the owning municipal corporations, and to charge and collect reasonable and adequate fees, charges and rents for the use of such property or for services rendered in the operation thereof.

(e) To operate, own, control, regulate, lease or grant to others the right to operate any airport premises, restaurants, apartments, hotels, motels, agriculture fairs, tracks, motion picture shows, cafes, soda fountains, or other businesses, amusements or concessions for a term not exceeding forty (40) years, as may appear to said Commission advantageous or conducive to the development of said airport.

(f) To erect and construct buildings, hangars, shops and other improvements and facilities, not inconsistent with or in violation of the agreements applicable to and the grants under which the real property of the airport is held; to lease the same for a term or terms not to exceed forty (40) years; to borrow money for use in

making or paying for such improvements and facilities, secured by and on the credit only of the lease agreements in respect thereto, to pledge and assign such leases and lease agreements as security for loans herein authorized.

(g) To issue bonds or other securities and obligations for the purpose of providing funds for the construction, maintenance, purchase, improvement and operation of said airport, landing fields, runways thereon, or other facilities. The said bonds, if and when so issued, shall be denominated "Watauga County Airport Commission Revenue Bonds" and shall be issued in such form and denomination and shall mature at such time or times, not exceeding thirty-five (35) years after their date, and shall bear such rate of interest, not exceeding six per cent (6%) per annum, payable annually or semiannually, as the said Watauga County Airport Commission may determine. The bonds shall be signed by the Chairman of said Airport Commission and the corporate seal affixed or impressed upon each bond and attested by the Secretary of said Commission. The coupons to be attached to said bonds shall bear the facsimile signature of the Treasurer of the Commission. Such bonds, notes or securities issued for the purpose, or purposes above set out, shall be sold under the supervision and with the approval of the Local Government Commission.

Bonds and notes issued under this Act shall be exempt from all State, Federal, county or municipal taxes or assessments, direct or indirect, general or special, and the interest paid on said bonds or notes shall not be subject to taxation as income. The said bonds, notes or other security shall not be obligations of the County of Watauga, the Town of Blowing Rock or the Town of Boone, but the said Airport Commission is authorized and empowered to pledge the revenues, rents, income and tolls arising out of the use of any airport property or any specific part of said airport property until such time as the sums borrowed therefor are fully amortized and repaid. The said bonds or other securities which the said Airport Commission may incur shall be issued and incurred upon such other terms, covenants and conditions as the said Airport Commission may deem proper.

The said bonds or other securities shall be issued and secured as provided for similar bonds by the Revenue Bond Act of 1938, which Act is made applicable to the Watauga Airport Commission.

(h) To expend funds appropriated from time to time by said towns and counties, jointly or severally, for joint airport purposes and to appropriate and expend for airport purposes funds received by it from fees, charges, rents and dues arising out of the operation of said airport, the facilities, improvements and concessions located thereat or operated thereon and from the sale of bonds or other securities herein authorized.

(i) To enter into contracts and to pledge the credit of the said Airport Commission to the extent herein authorized; provided, however, that neither said Airport Commission nor the individual members thereof shall have authority to pledge the credit of or contract for the Town of Blowing Rock, the Town of Boone or the County of Watauga.

(j) To contract and deal with the Federal Aviation Agency of the United States Government and any other representative or agency of said government relating to the grading, constructing, equipping, improving, maintaining and operating of airports and landing fields acquired under the authority of this Act.

(k) In addition to all other rights and powers herein conferred, the Watauga County Airport Commission is authorized and empowered to exercise the powers granted political subdivisions under the Model Airport Zoning Act contained in Article 4, Chapter 63, of the General Statutes of North Carolina, and is authorized and empowered to exercise the powers granted to municipalities by the terms of Article 6, Chapter 63, of the General Statutes of North Carolina, concerning public airports and related facilities.

Sec. 9. A majority of the Watauga County Airport Commission shall control its decisions. Each member of the Commission, including the chairman, shall have one vote. The Commission shall elect annually in April, from among its members, a chairman, a vice chairman, a secretary and treasurer. In the absence of rules of the Commission in respect thereof, the Commission shall meet at such places and times as the chairman shall designate. Each member of said Commission shall take an oath of office to faithfully perform his duties.

All members of said Commission who are full-time officials or full-time employees of either of the towns or county shall serve without compensation. Members of said Commission who are not full-time officials or full-time employees of either of said towns or county shall be paid a per diem of ten dollars (\$10.00) for each day served in attending the meeting of said Commission, and in addition thereto shall be reimbursed for actual necessary expenses incurred in attending the meetings, including actual traveling expenses or an allowance of five cents (5¢) per mile where such member uses his personally-owned automobile.

The Commission is hereby authorized and empowered in its discretion to fix a reasonable salary for the secretary of said Commission whether or not such secretary is an official or full-time employee of said towns or county.

Sec. 10. The Watauga County Airport Commission shall in no case be liable for damages for injuries to persons or property caused by or growing out of fueling, re-fueling or servicing any airplane at said airport.

Sec. 11. In addition to all powers and authority herein granted to the Watauga County Airport Commission the said Commission shall have and exercise any and all powers and authority conferred upon boards, commissions, counties and municipalities in the establishment and operation of airports as set forth in Chapter 63 of the General Statutes of North Carolina, as amended, and the said Watauga County Airport Commission as herein established and constituted shall be a body politic and corporate.

Sec. 12. The Watauga County Airport Commission is hereby authorized and empowered to adopt and use a seal and at any time to change the name of said Commission by the adoption of an appropriate resolution.

If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The

General Assembly expressly declares that it would have passed the remaining parts of this Act, if it had known that such part or parts thereof would be declared unconstitutional.

Sec. 13. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Sec. 14. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1961.