

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-219
HOUSE BILL 1051**

AN ACT TO ENABLE THE CREATION OF A MACON-JACKSON REGIONAL AIRPORT AUTHORITY; TO LIMIT OPERATIONS OF SOME FIXED AND ROTARY WING AIRCRAFT; AND TO CHANGE THE MEMBERSHIP OF THE JACKSON COUNTY AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. There is hereby created the "Macon-Jackson Regional Airport Authority" (for brevity hereinafter referred to as the "Airport Authority"), which shall be a body both corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly.

SECTION 2. The Airport Authority shall consist of not less than five and not more than nine members. The exact provisions relating to the appointment, terms, succession, removal, and vacancies of members and other similar matters shall be jointly determined and adopted by a resolution of the board of county commissioners of each county.

Each member shall take and subscribe before the Clerk of Court of Macon County or the Clerk of Court of Jackson County, depending on the member's residence, an oath of office and file that oath with the board of county commissioners of both counties. Membership on the Airport Authority and the Macon County Board of Commissioners or the Jackson County Board of Commissioners shall not constitute dual office holding within the meaning of Section 9 of Article VI of the North Carolina Constitution.

SECTION 3. The Airport Authority may adopt suitable bylaws for its management. The members of the Airport Authority may receive compensation, per diem, or otherwise as the Macon County Board of Commissioners and the Jackson County Board of Commissioners from time to time jointly determine. Members shall be allowed and paid their actual expenses incurred in transacting the business and at the instance of the Airport Authority. Members of the Airport Authority shall not be personally liable for their acts as members of the Airport Authority, except for acts resulting from misfeasance or malfeasance.

SECTION 4.(a) The Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

- (1) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports and landing fields for the use of airplanes and other aircraft within the limits of the counties

and for this purpose to purchase, improve, own, hold, lease, or operate real or personal property. The Airport Authority may exercise these powers alone or in conjunction with the counties of Macon and Jackson.

- (2) To sue and be sued in the name of the Airport Authority, to make contracts and hold any personal property necessary for the exercise of the powers of the Airport Authority, and acquire by purchase, lease, or otherwise any existing lease, leasehold right, or other interest in any existing airport located in the county.
- (3) To charge and collect reasonable and adequate fees and rents for the use of airport property or for services rendered in the operation of the airport.
- (4) To make all reasonable rules and regulations it deems necessary for the proper maintenance, use, operation, and control of the airport, including public safety, and provide penalties for the violation of these rules and regulations; provided, the rules and regulations and schedules of fees not be in conflict with the laws of North Carolina and the regulations of the Federal Aviation Administration. The Airport Authority may administer and enforce any airport zoning regulations adopted by the counties of Macon or Jackson depending on the location of the airport.
- (5) To issue bonds pursuant to Article 5 of Chapter 159 of the General Statutes.
- (6) To sell, lease, or otherwise dispose of any property, real or personal, belonging to the Airport Authority, according to the procedures described in Article 12 of Chapter 160A of the General Statutes, but no sale of real property shall be made without the approval of the board of commissioners of the county in which the real property is located.
- (7) To purchase any insurance that the Federal Aviation Administration or the Airport Authority shall deem necessary. The Airport Authority shall be responsible for any and all insurance claims or liabilities.
- (8) To deposit or invest and reinvest any of its funds as provided by the Local Government Finance Act, as it may be amended from time to time, for the deposit or investment of unit funds.
- (9) To purchase any of its outstanding bonds or notes.
- (10) To operate, own, lease, control, regulate, or grant to others, for a period not to exceed 20 years, the right to operate on any airport premises restaurants, snack bars, vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barbershops, automobile parking and storage facilities, automobile service establishments, and all other types of facilities as may be directly or indirectly related to the maintenance and furnishing to the general public of a complete air terminal installation.

- (11) To contract with persons, firms, or corporations for terms not to exceed 20 years, for the operation of airline-scheduled passenger and freight flights, nonscheduled flights, and any other airplane activities not inconsistent with the grant agreements under which the airport property is held.
- (12) 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 these improvements and facilities for a term or terms not to exceed 20 years; to borrow money for use in making and paying for these improvements and facilities, secured by and on the credit only of the lease agreements in respect to these improvements and facilities, and to pledge and assign the leases and lease agreements as security for the authorized loans.
- (13) Subject to the limitations set out in this act, to have all the same power and authority granted to cities and counties pursuant to Chapter 63 of the General Statutes, Aeronautics.
- (14) To have a corporate seal, which may be altered at will.

SECTION 4.(b) The Airport Authority shall possess the same exemptions in respect to payment of taxes and license fees and be eligible for sales and use tax refunds to the same extent as provided for municipal corporations by the laws of the State of North Carolina.

SECTION 5. The Airport Authority may acquire from the counties by agreement with the counties, and the counties may grant and convey, either by gift or for such consideration as the county may deem wise, any real or personal property which it now owns or may hereafter acquire, including nontax monies, and which may be necessary for the construction, operation, and maintenance of any airport located in the counties.

SECTION 6. Any lands acquired, owned, controlled, or occupied by the Airport Authority shall be, and are declared to be, acquired, owned, controlled, and occupied for a public purpose.

SECTION 7. Private property needed by the Airport Authority for any airport, landing field, or as facilities of an airport or landing field, may be acquired by gift or devise, or may be acquired by private purchase or by the exercise of eminent domain pursuant to Chapter 40A of the General Statutes, as a local public condemnor, including the provisions of G.S. 40A-42. If property acquired by gift, devise, purchase, or condemnation has a burial ground or graveyard, then it shall be lawful for the Airport Authority, after 30 days' notice to the surviving spouse or next of kin of the deceased buried there or the person in control of the graves, if they are known, to remove the interred body and reinter the body in another cemetery in Macon County or Jackson County. If no surviving spouse or next of kin or person in control can be found, then the Airport Authority may advertise for four consecutive weeks in a newspaper published in Macon County and Jackson County of the intended removal of the graves. The removal shall then be conducted under the supervision of the Clerk of the Superior

Court of Macon County or the Clerk of the Superior Court of Jackson County or his or her representative. The expense of the removal shall be borne by the Airport Authority.

SECTION 8. The Airport Authority shall make an annual report to the Macon County Board of Commissioners and the Jackson County Board of Commissioners setting forth in detail the operations and transactions conducted by it pursuant to this act. The Airport Authority shall not have the power to pledge the credit of Macon County or Jackson County, or any subdivision thereof, or to impose any obligation on Macon County or Jackson County, or any of its subdivisions, except when that power is expressly granted by statute.

SECTION 9. Subject to the limitations as set out in this act, all rights and powers given and granted to counties or municipalities by general law, which may now be in effect, or enacted in the future, relating to the development, regulation, and control of municipal airports and the regulation of aircraft are now concurrently vested in the Airport Authority. The Macon County Board of Commissioners and the Jackson County Board of Commissioners may delegate its powers under these acts to the Airport Authority, and the Airport Authority shall have concurrent rights with Macon County and Jackson County to control, regulate, and provide for the development of aviation in Macon County or Jackson County.

SECTION 10. The Airport Authority may contract with and accept grants from the Federal Aviation Administration, the State of North Carolina, or any of the agencies or representatives of either of said governmental bodies relating to the purchase of land and air easements and to the grading, constructing, equipping, improving, maintaining, or operating of an airport or its facilities or both.

SECTION 11. The Airport Authority may employ or contract with any agents, engineers, attorneys, and other persons whose services may be deemed by the Airport Authority to be necessary and useful in carrying out the provisions of Sections 1 through 10 of this act.

SECTION 12. The Macon County Board of Commissioners and the Jackson County Board of Commissioners may appropriate funds derived from any source including ad valorem taxes to carry out the provisions of this act in any proportion or upon any basis as may be determined by the Macon County Board of Commissioners or the Jackson County Board of Commissioners. The Macon County Board of Commissioners and the Jackson County Board of Commissioners may provide county services to the Airport Authority upon any basis as may be determined by the Macon County Board of Commissioners or the Jackson County Board of Commissioners.

SECTION 13. The Airport Authority may expend the funds that are appropriated by the county for joint airport purposes and may pledge the credit of the Airport Authority to the extent of the appropriated funds.

SECTION 14. The Airport Authority shall elect from among its members a chair and other officers at its initial meeting and then biennially thereafter. Officers shall be eligible to succeed themselves in office and to serve consecutive terms at the will of the members of the Airport Authority. A majority of the Airport Authority shall control its decisions. Each member of the Airport Authority, including the chair, shall have one vote. The Airport Authority shall meet at the places and times designated by the chair.

SECTION 15. If an airport established pursuant to this act ceases to be operated by the Airport Authority, or if any property acquired pursuant to this act for airport purposes is abandoned, then the title to that real or personal property, or rights under any existing lease, shall revert to and vest in the county in which the property is located; and on the sale of that property, the proceeds shall vest in the county in which the property is located.

SECTION 16. The powers granted to the Airport Authority shall not be effective until the members of the Airport Authority have been appointed by the Macon County Board of Commissioners and the Jackson County Board of Commissioners, acting jointly, and nothing in this act shall require either board of commissioners to make the initial appointments. It is the intent of this act to enable but not to require the formation of the Macon-Jackson Regional Airport Authority.

SECTION 17. Upon the creation of the Macon-Jackson Regional Airport Authority, either county may elect to dissolve its current county Airport Authority. The dissolution may be effectuated by a resolution of the board of county commissioners following a public hearing held on the matter, or by a resolution of the board of county commissioners ratifying a favorable binding referendum on the question of the dissolution. The referendum on the dissolution may be held at the same time as any other state or county primary, election, special election, or referendum.

SECTION 18. No fixed wing or rotary wing commercial flights may originate or terminate in Macon County or Jackson County unless they originate or terminate from an airport approved by the Federal Aviation Authority and operated pursuant to Chapter 63 of the General Statutes. This section shall not apply to fixed wing or rotary wing aircraft operated by or at the direction of governmental agencies or providing medical air services.

SECTION 19.(a) Section 2 of S.L. 1997-22 reads as rewritten:

"Section 2. The Airport Authority shall consist of ~~six~~five members, who shall be residents of Jackson County and who shall be appointed to staggered terms of six years by the Jackson County Board of Commissioners. Members may succeed themselves in office and serve more than one term. Two initial appointments to the Airport Authority shall be for two years, two initial appointments to the Airport Authority shall be for four years, and the remaining two initial appointments to the Airport Authority shall be for six years. When vacancies occur in the membership of the Airport Authority, for any reason, the remaining members of the Airport Authority shall submit a list of two or more candidates to the Jackson County Board of Commissioners who shall select one from that list to fill the unexpired term of the vacant office. Each member shall take and subscribe before the Clerk of Superior Court of Jackson County an oath of office and file the same with the Jackson County Board of Commissioners. Membership on the Jackson County Board of Commissioners and the Airport Authority shall not constitute double office holding within the meaning of Article VI, Section 9 of the Constitution of North Carolina."

SECTION 19.(b) The reduction in membership of the Jackson County Airport Authority in consequence of subsection (a) of this section shall be implemented

by not filling one of the vacancies in existence when this bill becomes law, or if there be no vacancy, by not filling one seat the next time a vacancy arises.

SECTION 20. If any one or more sections, clauses, sentences, or parts of this act shall be adjudged invalid, such judgment shall not affect, impair, or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions held invalid, and the inapplicability or invalidity of any section, clause, sentence, or part of this act in one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

SECTION 21. Sections 1 through 17 of this act shall expire on January 1, 2007, if the Macon County Board of County Commissioners and the Jackson County Board of County Commissioners have not appointed members of the Macon-Jackson Regional Airport Authority prior to that date.

SECTION 22. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of July, 2005.

s/ Charlie S. Dannelly
Deputy President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives