

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH30322-MA-273 (3/15)

Short Title: Greater Asheville Aviation Authority Act.

(Local)

Sponsors: Representative Goforth.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE GREATER ASHEVILLE AVIATION AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Greater Asheville Aviation Authority Act."

SECTION 2. There is hereby created the Greater Asheville Aviation Authority, which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by future acts of the General Assembly.

SECTION 3.(a) Unless the context requires otherwise, the following definitions apply throughout this act to the defined words and phrases and their cognates:

SECTION 3.(b) "Airport facilities" means airport facilities of all kinds, including, but not limited to, landing fields, hangars, shops, restaurants and catering facilities, terminals, buildings, and parking facilities and all other facilities necessary or desirable for the landing, taking off, operating, servicing, repairing, and parking of aircraft, the unloading and handling of mail, express, and freight, and the accommodation, convenience, and comfort of passengers, together with related transportation facilities, all necessary appurtenances, machinery, and equipment, and all lands, properties, rights, easements, and franchises relating thereto and considered necessary or convenient by the Aviation Authority in connection therewith.

SECTION 3.(c) "Authority" means the Greater Asheville Aviation Authority created by this act or, if such Authority is abolished, the board, body, or commission succeeding to the principal functions thereof.

SECTION 4.(a) The creation and membership of the Authority shall be as follows:

1 **SECTION 4.(b)** The Authority shall consist of five members of whom two
2 shall be resident voters of the City of Asheville; two shall be resident voters of the
3 County of Buncombe; and one from Henderson County at large. A person who, at the
4 time of an appointment, is transacting business with the Authority or who is reasonably
5 expected to transact business with the Authority, either personally or as an employee of,
6 agent for, or consultant to any other person or legal entity, or is a tenant of a lessee of
7 the Authority may not be appointed as a member of the Authority.

8 **SECTION 4.(c)** The Board of Commissioners of Buncombe County shall
9 appoint two members to the Authority, the Asheville City Council shall appoint two
10 members to said Airport Authority, and the Board of Commissioners of Henderson
11 County shall appoint one member to the Authority. The members of the Authority shall
12 be appointed to serve for a term of four years, provided, however, the first member to be
13 initially appointed by the Buncombe County Board of Commissioners shall serve for a
14 period of two years, the first member initially appointed by the City of Asheville shall
15 serve for a period of two years, the second member initially appointed by the Buncombe
16 County Board of Commissioners shall serve a regular term of four years, and the second
17 member appointed by the City of Asheville shall serve a regular term of four years. At
18 the expiration of the initial two-year terms for the first members appointed by the City
19 of Asheville and the Buncombe County Board of Commissioners, and each term
20 thereafter, all appointments by the City of Asheville and the Buncombe County Board
21 of Commissioners shall be for four-year terms. The member appointed by the
22 Henderson County Board of Commissioners shall be for a four-year term. Members of
23 the Authority may serve up to a total of two successive four-year terms.

24 **SECTION 4.(d)** Any vacancy occurring among the membership of the
25 Authority shall be filled by appointment of a member for the unexpired term thereof,
26 such appointment to be made by the City Council or Board of Commissioners whose
27 appointee creates such vacancy within 60 days after notice of the vacancy thereof.

28 **SECTION 4.(e)** Each of the members and their successors so appointed
29 shall take and subscribe to an oath of office before an officer authorized to administer
30 oaths and file certified copies of the same with the respective county or the city.

31 **SECTION 4.(f)** Any appointed member of the Authority may be suspended
32 or removed from office by their respective appointing body for good cause affecting his
33 or her ability to perform his or her duties as a member; for misfeasance, malfeasance, or
34 nonfeasance in office; or for violating his or her duty to avoid conduct tending to
35 undermine decisions of the Authority, exposing the Authority to liability for damages,
36 injuring the good name of the Authority, or disturbing the well-being of the Authority's
37 staff or employees.

38 **SECTION 4.(g)** Members of the Authority shall not be personally liable, in
39 any manner, for their acts as members of the Authority, except for misfeasance or
40 malfeasance.

41 **SECTION 4.(h)** All duly appointed members of the Authority shall serve as
42 such members until their respective successors have been duly appointed, qualified, and
43 sworn in the manner above set forth.

1 **SECTION 5.(a)** The organization and business of the Authority shall be
2 conducted as follows:

3 **SECTION 5.(b)** The members of the Authority, for the purpose of doing
4 business, shall constitute a Board of Directors, which may adopt suitable bylaws, not
5 inconsistent with the provisions of this act, for its management.

6 **SECTION 5.(c)** The Authority shall appoint from its voting members a
7 Chairman, Vice Chairman, and other officers as it may deem necessary for the orderly
8 conduct of its business.

9 **SECTION 5.(d)** A majority of the voting members shall control the
10 decisions of the Authority, and each voting member of the Authority, including the
11 Chairman, shall have one vote. A majority of the duly appointed and qualified members
12 of the Authority shall constitute a quorum.

13 **SECTION 5.(e)** The Authority shall hold meetings at least monthly at such
14 times and places as it from time to time may designate and at such other times on the
15 call of the Chairman or by four voting members of the Authority provided at least five
16 days' notice is given. The Authority may cancel a monthly meeting if it is determined by
17 the Chairman or four voting members that a monthly meeting is not required.

18 **SECTION 5.(f)** The members of the Board may receive annual
19 compensation of two thousand dollars (\$2,000) to be paid in equal monthly installments,
20 and shall be allowed and paid travel, lodging, and meal expenses incurred in transacting
21 the business on behalf of the Authority.

22 **SECTION 5.(g)** The fiscal year of the Authority shall begin July 1 and end
23 on June 30. On or before May 15 of each calendar year, the Authority shall prepare and
24 adopt a proposed budget for the next ensuing fiscal year and file copies of such
25 proposed budget with the Buncombe and Henderson County Boards of Commissioners
26 and the City of Asheville's City Council.

27 **SECTION 5.(h)** All meetings of the Authority shall be conducted in
28 accordance with Article 33C of Chapter 143 of the General Statutes.

29 **SECTION 6.(a)** The Authority shall constitute a body, both corporate and
30 politic, and shall have the following powers and authority:

31 **SECTION 6.(b)** To adopt an official seal and alter the same at its pleasure.

32 **SECTION 6.(c)** To maintain an office at such place or places as it may
33 designate within Buncombe or Henderson Counties only.

34 **SECTION 6.(d)** To purchase, acquire, establish, construct, own, control,
35 lease, equip, improve, maintain, operate, and regulate airports or landing fields for the
36 use of airplanes and other aircraft, and all facilities incidental to the operation of such
37 airports or landing fields, within the limits of Buncombe and Henderson Counties; and
38 for any of such purposes, to purchase, acquire, own, hold, lease, and operate real or
39 personal property.

40 **SECTION 6.(e)** To purchase real or personal property.

41 **SECTION 6.(f)** To sue or be sued in the name of the Authority, to acquire
42 by purchase and to hold lands for the purpose of constructing, maintaining, or operating
43 any airport within the limits of said counties, and to make such contracts and to hold
44 such personal property as may be necessary for the exercise of the powers of the

1 Authority. The Authority may acquire by purchase, or otherwise, any existing lease,
2 leasehold right, or other interest in any existing airport facility located in the counties of
3 Buncombe and Henderson.

4 **SECTION 6.(g)** To charge and collect reasonable and adequate fees,
5 royalties, rents, or other charges for the use of property owned, leased, or otherwise
6 controlled, or operated, by the Authority or for services rendered in the operation
7 thereof.

8 **SECTION 6.(h)** To make all reasonable rules and regulations as it deems
9 necessary for the proper maintenance, use, operation, and control of any airport or
10 airport facilities owned, leased, or controlled by the Authority; to provide penalties for
11 the violation of such rules and regulations; provided said rules and regulations and
12 penalties be not in conflict with the laws of the State of North Carolina and the rules and
13 regulations of the Federal Aviation Administration.

14 **SECTION 6.(i)** To sell, or otherwise dispose of, any property, real or
15 personal, belonging to the Authority.

16 **SECTION 6.(j)** To purchase such insurance as the Authority shall deem
17 necessary.

18 **SECTION 6.(k)** To authorize, deny, or withdraw the right of any person,
19 firm, or corporation to construct, operate, or maintain any airport or landing field within
20 Buncombe or Henderson Counties. The Authority is further authorized and fully
21 empowered to maintain and operate any airport or landing field jointly with any
22 adjoining county or counties or jointly with other aviation/airport authorities operating
23 under authorization from one or more adjoining counties of the municipalities therein.

24 **SECTION 6.(l)** To deposit or invest and reinvest any of its funds as
25 provided by the Local Government Finance Act, as it may be amended from time to
26 time, for the deposit or investment of unit funds.

27 **SECTION 6.(m)** To issue revenue bonds and/or refunding bonds pursuant to
28 the provision of the Local Government Revenue Bond Act.

29 **SECTION 6.(n)** To purchase money mortgages on any additional property
30 purchased by the Authority, or to purchase property subject to mortgages; however, the
31 security instrument evidencing any such mortgage must expressly limit and confine the
32 lien of the mortgage to the property so purchased.

33 **SECTION 6.(o)** To borrow money and to procure one or more lines of credit
34 in furtherance thereof, for any corporate purpose of the Authority and to secure any
35 such loan by executing a promissory note or notes in the name of the Authority pledging
36 any revenues of the Authority; however, any such promissory note is, and must state on
37 its face that it is, subordinate and subject in right to payment from the revenues of any
38 airport facilities, but not subordinate and subject in right to payment from federal or
39 State grants unless so provided in any resolution or trust agreement as mentioned
40 hereinafter, to all bonds and bond anticipation notes theretofore or thereafter issued by
41 the Authority pursuant to this act or any other statute for the purpose of paying the cost
42 of acquiring, constructing, reconstructing, improving, extending, enlarging, or
43 equipping any airport facilities, except to the extent otherwise provided in any

1 resolution or trust agreement authorizing or securing, respectively, such bonds or bond
2 anticipation notes.

3 **SECTION 6.(p)** To purchase any of its outstanding bonds or notes.

4 **SECTION 6.(q)** To operate, own, lease, control, regulate, or grant to others
5 the right to operate on any airport premises, restaurants, snack bars and vending
6 machines, food and beverage dispensing outlets, rental car services, catering services,
7 novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels,
8 barber shops, automobile parking and storage facilities, automobile service stations,
9 garage service facilities, motion picture shows, personal service establishments, and all
10 other types of facilities as may be directly or indirectly related to the maintenance and
11 furnishing to the public commercial and general aviation airport facilities.

12 **SECTION 6.(r)** To possess the same exemptions in respect to payment of
13 taxes and license fees as provided for municipal corporations by the laws of the State of
14 North Carolina.

15 **SECTION 6.(s)** To accept grants of money or materials or property of any
16 kind for any airport facilities from any federal or State agency, political subdivision, or
17 other public body or from any private agency or individual, upon such terms and
18 conditions as may be imposed, and to enter into contracts and grants agreements with
19 the Federal Aviation Administration, or any successor or successors thereof, and with
20 the State of North Carolina or any of its agencies, in the capacity of sponsor or
21 cosponsor of any airport development project involving the acquisition, construction,
22 reconstruction, improvement, extension, enlargement, or equipment of any airport
23 facilities owned or operated by the Authority, pursuant to any federal or State law
24 providing for aid to airports.

25 **SECTION 6.(t)** To employ and fix the compensation of a managing director
26 who shall manage the affairs of the Authority under the supervision of the Authority.
27 Such managing director may be given any title suitable to the Authority. The Authority
28 may also employ such agents, engineers, attorneys, and other persons whose services
29 may be deemed by the Authority to be necessary or useful in carrying out the provisions
30 of this act.

31 **SECTION 6.(u)** To make or cause to be made such surveys, investigations,
32 studies, borings, maps, plans, drawings, and estimates of cost and revenues as the
33 authority may deem necessary and may prepare and adopt a comprehensive plan or
34 plans for the location, construction, improvement, and development of any project.

35 **SECTION 6.(v)** To exercise all of the powers conferred by Chapter 63 of
36 the General Statutes.

37 **SECTION 7.** The Authority is hereby declared to be a "municipality" within
38 the meaning of the Local Government Revenue Bond Act having the power granted to
39 municipalities therein.

40 **SECTION 8.(a)** The Authority may acquire property as follows:

41 **SECTION 8.(b)** The Authority is hereby authorized and empowered to
42 acquire from the Counties of Buncombe and Henderson, and the City of Asheville, by
43 agreement therewith, and such counties and cities are hereby authorized and empowered
44 to grant and convey, either by gift or for such consideration as it may be deemed wise,

1 any real or personal property which it now owns or may hereafter be acquired, and
2 which may be necessary for the construction, operation, and maintenance of any airport
3 or facilities of same located in the Counties of Buncombe or Henderson.

4 **SECTION 8.(c)** Private property needed by the Authority for any airport,
5 landing field, or facilities of same may be acquired by gift or devise, or may be acquired
6 by private purchase or by the exercise of the power of eminent domain by the Authority,
7 pursuant to the provisions of Chapter 40 of the General Statutes, as amended. Aviation
8 easements needed by the Authority for any airport, landing field, or facilities of same
9 may likewise be acquired by gift, devise, or private purchase or by the exercise of the
10 power of eminent domain by said Authority, pursuant to the provisions of Chapter 40 of
11 the General Statutes.

12 **SECTION 8.(d)** Any lands acquired, owned, controlled, or occupied by the
13 Authority shall, and are hereby declared to be, acquired, owned, controlled, and
14 occupied for a public purpose.

15 **SECTION 9.** The Authority shall make annual reports to the Buncombe
16 County Board of Commissioners, the City of Asheville City Council, and the Henderson
17 County Board of Commissioners, setting forth the operations and transactions
18 conducted by it pursuant to this act. The Authority shall be regarded as the corporate
19 instrumentality and agent for the Counties of Buncombe and Henderson and the City of
20 Asheville for the purpose of developing aviation facilities in the Counties of Buncombe
21 and Henderson, but it shall have no power to pledge the credit of the Counties of
22 Buncombe or Henderson, or the City of Asheville, or any subdivision thereof, or to
23 impose any obligation upon the Counties of Buncombe or Henderson, or the City of
24 Asheville, or any subdivision thereof, except and when such power is expressly granted
25 by statute.

26 **SECTION 10.** All rights and powers given to the counties or municipalities
27 by the statutes of North Carolina, which may now be in effect, or may be enacted in the
28 future, relating to the development, regulation, and control of municipal airports and the
29 regulations of aircraft, are hereby vested in the said Authority.

30 **SECTION 11.** The Authority is hereby expressly authorized to make and
31 enter into contracts, leases, conveyances, and other agreements with any political
32 subdivision, agency, or instrumentality of the State, any federal agencies, legal entities,
33 and persons for the purpose of carrying out the provisions of this act.

34 **SECTION 12.** The powers of the Authority created by this act shall be
35 construed liberally in favor of the Authority. No listing of powers included in this act is
36 intended to be exclusive or restrictive and the specific mention of, or failure to mention,
37 particular powers in this act shall not be construed as limiting in any way the general
38 powers of the Authority as stated in Section 6 of this act. It is the intent of this act to
39 grant the Authority full power and right to exercise all authority necessary for the
40 effective operation and conduct of the Authority. It is further intended that the Authority
41 should have all implied powers necessary or incidental to carrying out the expressed
42 powers and the expressed purposes for which the Authority is created. The fact that this
43 act specifically states that the Authority possesses a certain power does not mean that
44 the Authority must exercise such power unless this act specifically so requires.

1 **SECTION 13.** If any provision of this act or its application is held invalid,
2 the invalidity does not affect other provisions or applications of this act that can be
3 given effect without the invalid provisions or application, and to this end the provisions
4 of this act are severable.

5 **SECTION 14.** This act is effective when it becomes law.