

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1207

Short Title: Greater Asheville Aviation Authority Act.

(Local)

Sponsors: Representative Goforth.

Referred to: Judiciary II.

March 29, 2007

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:

SECTION 4.(b) The Authority shall consist of five members of whom two shall be resident voters of the City of Asheville; two shall be resident voters of the County of Buncombe; and one from Henderson County at large. A person who, at the

1 time of an appointment, is transacting business with the Authority or who is reasonably
2 expected to transact business with the Authority, either personally or as an employee of,
3 agent for, or consultant to any other person or legal entity, or is a tenant of a lessee of
4 the Authority may not be appointed as a member of the Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 leasehold right, or other interest in any existing airport facility located in the counties of
2 Buncombe and Henderson.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 which may be necessary for the construction, operation, and maintenance of any airport
2 or facilities of same located in the Counties of Buncombe or Henderson.

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

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

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

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

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

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