

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

1

SENATE BILL 1168

Short Title: Create Aviation Management Division. (Public)

Sponsors: Senators Clodfelter; and Hartsell.

Referred to: Transportation.

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO CREATE THE AVIATION MANAGEMENT DIVISION; TO REQUIRE THE SALE OF CERTAIN STATE AIRCRAFT; TO CONSOLIDATE STATE AIRCRAFT FLEETS; AND TO MAKE CONFORMING STATUTORY CHANGES, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE OF THE NORTH CAROLINA GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

PART I. CREATION OF AVIATION MANAGEMENT DIVISION; DIVISION TO PROVIDE AVIATION PASSENGER TRANSPORT AND PHOTOGRAMMETRY SERVICES TO STATE AGENCIES

SECTION 1.(a) The Division of Aviation of the Department of Transportation is renamed the Aviation Management Division of the Department of Transportation. Wherever the name "Division of Aviation" appears in G.S. 63-91 and G.S. 63-92, the Revisor of Statutes shall replace "Division of Aviation" with "Aviation Management Division."

SECTION 1.(b) Article 8 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 10. Aviation Management Division.

"§ 143B-364.1. Aviation Management Division – creation.

(a) Creation. – There is established within the Department of Transportation the Aviation Management Division, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) State Agencies to Use Division to Arrange Aviation Passenger Transport and Photogrammetry Services. – All State agencies in need of aviation passenger transport services or photogrammetry services shall arrange for those services through the Aviation Management Division in accordance with this Part. As used in this Part, the term 'aviation passenger transport services' means the use of State-owned aircraft to transport persons and does not include travel on commercial flights. As used in this Part, the term 'State agency' does not include units of local government.

"§ 143B-364.2. Powers and duties.

The Aviation Management Division shall have the following powers and duties:

- (1) Aviation Passenger Transport and Photogrammetry. – To operate consolidated aviation passenger transport and photogrammetry services for all State programs and officials. This includes the following powers and duties:



- 1 a. Acquiring, operating, maintaining, and housing aircraft. Acquisition
2 of aircraft may be made through the Department of Administration or
3 independently.
- 4 b. Adopting guidelines to govern the use of State aircraft for aviation
5 passenger transportation services, including guidelines governing the
6 appropriate use of aircraft, passenger prioritization, scheduling
7 responsibilities and procedures, and rate structures.
- 8 c. Providing centralized scheduling and aviation passenger
9 transportation services to State entities.
- 10 d. Ensuring safety guidelines and requirements are met for staff and
11 aircraft operations.
- 12 e. Determining the appropriate number of aircraft and personnel
13 required to meet the State's needs. Fleet mix studies shall be
14 conducted periodically to determine the appropriate number and type
15 of aircraft needed for aviation passenger transport and
16 photogrammetry activities.
- 17 f. Disposing of State aviation assets no longer needed. This may be
18 accomplished through cooperation with the Department of
19 Administration or independently. The net proceeds of any disposition
20 under this sub-subdivision shall be remitted to the State Treasurer for
21 deposit in the General Fund.
- 22 g. Conducting analyses to ensure efficient operation of transportation
23 aircraft.
- 24 h. Developing a long-term fleet management plan.
- 25 (2) Exercising the powers and duties exercised by the Division of Aviation of
26 the Department of Transportation prior to the enactment of this section.

27 **"§ 143B-364.3. Electronic aviation resources management system.**

28 The Aviation Management Division shall acquire and implement a single electronic data
29 management system to manage all State aviation resources related to aviation passenger
30 transport and photogrammetry services. The system shall electronically track flight,
31 maintenance, and cost information consistently across all State aircraft used to provide
32 passenger transport or photogrammetry services. The Division shall use the system to produce
33 reports that shall be used to ensure the safe, efficient operations of the State aviation fleet.

34 **"§ 143B-364.4. Fees.**

35 (a) Fee for Passenger Transport and Photogrammetry Services. – The Aviation
36 Management Division shall set fees for use by State agencies of aviation passenger transport
37 and photogrammetry services.

38 (b) Use of Fees. – Fees collected pursuant to this section shall be used to support
39 Aviation Management Division operations, and the total amount of fees collected annually
40 under this section shall not exceed the anticipated operating costs of the Division for the
41 following fiscal year plus an amount sufficient to meet any anticipated nonrecurring expenses
42 associated with inspections, fleet mix studies, maintenance, or related costs for the following
43 fiscal year.

44 (c) Not Subject to Administrative Procedure Act. – The setting of the fees authorized by
45 this section is not subject to Chapter 150B of the General Statutes.

46 **"§ 143B-364.5. Report to Joint Legislative Commission on Governmental Operations.**

47 The Aviation Management Division shall report each year by December 1 to the Joint
48 Legislative Commission on Governmental Operations, the Subcommittees on Transportation of
49 the House of Representatives and Senate Appropriations Committees, and the Fiscal Research
50 Division of the General Assembly on the cost and efficiency of all State aviation programs."

1 **SECTION 1.(c)** The Executive Aircraft Division of the Department of Commerce
2 is transferred to the Aviation Management Division of the Department of Transportation. This
3 transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.
4

5 **PART II. SALE OF CERTAIN AIRCRAFT AND OTHER MATTERS**

6
7 **SECTION 2.(a)** The aircraft proposed for elimination in Exhibit 15 of the Program
8 Evaluation Division's report entitled "Selling 25 Underutilized Aircraft May Yield Up to \$8.1
9 Million and Save \$1.5 Million Annually" (Report 2010-04), and associated records, property,
10 unexpended balances of appropriations, allocations or other funds, are transferred to the
11 Aviation Management Division. Affected agencies may designate the particular aircraft that are
12 transferred so long as the number of aircraft proposed for elimination by the report are in fact
13 transferred. State agencies required by this section to transfer aircraft to the Division shall
14 reduce personnel accordingly.

15 As soon as practicable, the Aviation Management Division shall obtain appraisals
16 and sell any of the aircraft transferred pursuant to this section that can be sold. The net proceeds
17 from these sales shall be remitted on a quarterly basis to the State Treasurer for deposit into the
18 General Fund. Any aircraft transferred pursuant to this section that cannot be sold because of
19 restrictions contained in federal law or agreements with the federal government shall cease to
20 be used by State agencies, and the Division shall arrange for their disposal in the most
21 economically beneficial manner available to the State that satisfies any applicable restrictions.

22 **SECTION 2.(b)** The Aviation Management Division shall terminate leases for, or
23 appraise and sell, the five hangars selected for elimination in Exhibit 17 of the Program
24 Evaluation Division's report entitled "Selling 25 Underutilized Aircraft May Yield Up to \$8.1
25 Million and Save \$1.5 Million Annually" (Report 2010-04) as the sale of aircraft required by
26 subsection (a) of this section makes the elimination of those facilities feasible. For purposes of
27 this subsection, a lease is terminated if it is allowed to expire and not renewed. Nothing in this
28 subsection requires the termination of a contract existing on the effective date of this subsection
29 unless that contract provides a mechanism for termination that does not constitute a breach of
30 contract.

31 **SECTION 2.(c)** The aircraft operations of the North Carolina Area Health
32 Education Program (AHEC) of The University of North Carolina System is transferred to the
33 Aviation Management Division of the Department of Transportation. This transfer shall have
34 all of the elements of a Type I transfer, as defined in G.S. 143A-6. The Division shall give
35 notice to Medical Air, Inc., a nonprofit corporation, that AHEC has been transferred to the
36 Division pursuant to this section and that G.S. 143B-364.1(b), as enacted by Section 1(b) of
37 this act, requires that AHEC henceforth arrange for aviation passenger transport services
38 through the Division. The Division shall further request that since Medical Air, Inc., can no
39 longer lawfully provide these services to AHEC, Medical Air, Inc., be dissolved and the aircraft
40 it owns transferred to the Division.

41 **SECTION 2.(d)** The Aviation Management Division shall obtain a more
42 economically desirable means of housing the aircraft of the Division of Forest Resources of the
43 Department of Environment and Natural Resources that are currently housed at the Hickory
44 Regional Airport than the arrangement currently in existence.

45 **SECTION 2.(e)** The Division of Forest Resources in the Department of
46 Environment and Natural Resources shall implement the safety recommendations of aviation
47 consultant Conklin & de Decker that are summarized in Appendix D of the Program Evaluation
48 Division's report entitled "Selling 25 Underutilized Aircraft May Yield Up to \$8.1 Million and
49 Save \$1.5 Million Annually" (Report 2010-04). The Division of Forest Resources shall file
50 quarterly reports with the Aviation Management Division of the Department of Transportation

1 detailing its implementation of these recommendations until the management database required
2 by G.S. 143B-364.3 is operational.

3 **SECTION 2.(f)** G.S. 143B-437.011 is repealed.

4 **SECTION 2.(g)** There is appropriated from the General Fund to the Division of
5 Forest Resources of the Department of Environment and Natural Resources the sum of
6 fifty-one thousand dollars (\$51,000) for the 2010-2011 fiscal year to contract for additional
7 aircraft support for fire protection as needed. It is the intent of the General Assembly that these
8 funds be recurring.

9
10 **PART III. AVIATION MANAGEMENT DIVISION'S DUTY TO OVERSEE STATE**
11 **AVIATION PROGRAMS OTHER THAN PASSENGER TRANSPORT AND**
12 **PHOTOGRAMMETRY SERVICES**

13
14 **SECTION 3.** Part 10 of Article 8 of Chapter 143B of the General Statutes reads as
15 rewritten:

16 "Part 10. Aviation Management Division.

17 **"§ 143B-364.1. Aviation Management Division – creation.**

18 (a) Creation. – There is established, within the Department of Transportation, the
19 Aviation Management Division, which shall be organized and staffed in accordance with
20 applicable laws and regulations and within the limits of authorized appropriations.

21 (b) State Agencies to Use Division to Arrange Services. – All State agencies in need of
22 aviation passenger transport services or photogrammetry services shall arrange for those
23 services through the Aviation Management Division in accordance with this Part. As used in
24 this Part, the term 'aviation passenger transport services' means the use of State-owned aircraft
25 to transport persons and does not include the purchase of tickets allowing persons to travel on
26 commercial flights. As used in this Part, the term 'State agency' does not include units of local
27 government.

28 **"§ 143B-364.2. Powers and duties.**

29 The Aviation Management Division shall have the following powers and duties:

- 30 (1) Aviation Passenger Transport and Photogrammetry. – To operate
31 consolidated aviation passenger transport and photogrammetry services for
32 all State programs and officials. This includes the following powers and
33 duties:
- 34 a. Acquiring, operating, maintaining, and housing aircraft.
 - 35 b. Adopting guidelines to govern the use of State aircraft for aviation
36 passenger transportation services, including guidelines governing the
37 appropriate use of aircraft, passenger prioritization, scheduling
38 responsibilities and procedures, and rate structures.
 - 39 c. Providing centralized scheduling and aviation passenger
40 transportation services to State entities.
 - 41 d. Ensuring safety guidelines and requirements are met for staff and
42 aircraft operations.
 - 43 e. Determining the appropriate number of aircraft and personnel
44 required to meet the State's needs. Fleet mix studies shall be
45 conducted periodically to determine the appropriate number and type
46 of aircraft needed for aviation passenger transport and
47 photogrammetry activities.
 - 48 f. Disposing of State aviation assets no longer needed. This may be
49 accomplished through cooperation with the Department of
50 Administration or independently. The net proceeds of any disposition

- 1 under this subdivision shall be remitted to the State Treasurer for
2 deposit in the General Fund.
- 3 g. Conducting analyses to ensure efficient operation of transportation
4 aircraft.
- 5 h. Developing a long-term fleet management plan.
- 6 (2) ~~Exercising the powers and duties exercised by the Division of Aviation of~~
7 ~~the Department of Transportation prior to the enactment of this~~
8 ~~section.~~ Aviation Services Other Than Passenger Transport and
9 Photogrammetry. – To provide management oversight for non-passenger and
10 non-photogrammetry aircraft. These aircraft shall continue to be operated
11 under the control of individual State agencies, but the Division shall assume
12 management oversight of them in accordance with this subdivision. With
13 respect to these programs and aircraft, the Division shall have the following
14 powers and duties:
- 15 a. Overseeing the management and maintenance of all aircraft owned or
16 operated by the State.
- 17 b. Reviewing aviation programs to ensure efficient operations across
18 agencies, encouraging resource sharing, and considering contracting
19 with private entities where appropriate.
- 20 c. Examining aviation facilities and combining or closing facilities as
21 needed to ensure efficient operations. The disposal of assets
22 associated with closing facilities may be accomplished through
23 cooperation with the Department of Administration or independently.
24 The net proceeds of any disposition under this sub-subdivision shall
25 be remitted to the State Treasurer for deposit in the General Fund.
- 26 d. Convening staff from aviation programs to promote information
27 sharing and efficiencies gained by coordinated operations.
- 28 (3) General Powers and Duties. – The Division has the following powers and
29 duties:
- 30 a. Housing and operating flight and maintenance data systems pursuant
31 to G.S. 143B-364.3.
- 32 b. Developing, maintaining, and promoting a safe and effective
33 statewide aviation system.
- 34 c. Conducting inspections to determine compliance with Division
35 guidelines, notifying agencies in writing of aviation fleet
36 deficiencies, and requiring action to correct safety issues.
- 37 d. Acquiring, appraising, and disposing of all State aviation assets. This
38 includes acting as the purchasing agent for State agencies seeking to
39 purchase aircraft or other aviation assets.
- 40 e. Assisting State agencies in the preparation of, and approving,
41 requests for appropriations related to State aviation.
- 42 f. Developing policies and procedures, including identification of
43 aviation management tools such as data tracking programs, to guide
44 management oversight of all State aviation resources.
- 45 g. Exercising the powers and duties exercised by the Division of
46 Aviation of the Department of Transportation prior to the enactment
47 of this section.

48 **"§ 143B-364.3. Electronic aviation resources management system.**

49 The Aviation Management Division shall acquire and implement a single electronic data
50 management system to manage all State aviation ~~resources related to aviation passenger~~
51 ~~transport and photogrammetry services resources.~~ The system shall electronically track flight,

1 maintenance, and cost information consistently across all State aircraft used to provide
2 ~~passenger transport or photogrammetry services.~~ aircraft. The Division shall use the system to
3 produce reports that shall be used to ensure the safe, efficient operations of the State aviation
4 fleet.

5 **"§ 143B-364.4. Fees.**

6 (a) Fee for Passenger Transport and Photogrammetry Services. – The Aviation
7 Management Division shall set fees for use by State agencies of passenger transport and
8 photogrammetry services.

9 (a1) Fee for Oversight of Other Aviation Programs. – The Aviation Management
10 Division shall charge an annual fee to each State agency that operates an aviation program
11 other than a passenger transport or photogrammetry program. The amount of this fee shall not
12 exceed three percent (3%) of the total annual cost of operating the aviation program being
13 assessed the fee.

14 (b) Use of Fees. – Fees collected under this section shall be used to support Aviation
15 Management Division operations, and the total amount of fees collected annually under this
16 section shall not exceed the anticipated operating costs of the Division for the following fiscal
17 year plus an amount sufficient to meet any anticipated one-time expenses associated with
18 inspections, maintenance, or related costs for the following fiscal year.

19 (c) Not Subject to Administrative Procedure Act. – The setting of the fees authorized by
20 this Section is not subject to Chapter 150B of the General Statutes.

21 **"§ 143B-364.5. Report to Joint Legislative Commission on Governmental Operations.**

22 The Aviation Management Division shall report each year by December 1 to the Joint
23 Legislative Commission on Governmental Operations, the Subcommittees on Transportation of
24 the House of Representatives and Senate Appropriations Committees, and the Fiscal Research
25 Division of the General Assembly on the cost and efficiency of all State aviation programs.

26 **"§ 143B-364.6. Duty of State agencies to supply information.**

27 A State aviation program shall provide any data requested by the Aviation Management
28 Division in order to facilitate the Division's aviation management oversight. If a State aviation
29 program fails to supply this data, the Division may order the offending aviation program
30 suspended and ground all program aircraft until the data is provided, so long as suspension will
31 not immediately endanger life or property.

32 **"§ 143B-364.7. Suspension of aviation programs.**

33 If data supplied to the Aviation Management Division pursuant to G.S. 143B-364.6
34 indicates noncompliance with the Division's policies and procedures, the Division may order
35 the offending aviation program suspended and ground all program aircraft until the program is
36 in compliance, so long as suspension will not immediately endanger life or property."

37
38 **PART IV. EFFECTIVE DATE**

39
40 **SECTION 4.** Section 3 of this act becomes effective October 1, 2011. Subsection
41 2(g) of this act becomes effective July 1, 2010. The remainder of this act becomes effective
42 October 1, 2010.