

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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HOUSE BILL 552

Short Title: Greater Asheville Reg. Airport Authority. (Local)

Sponsors: Representatives Moffitt, McGrady, Keever, and Fisher (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government, if favorable, Finance.

March 31, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE GREATER ASHEVILLE REGIONAL AIRPORT
3 AUTHORITY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** This act shall be known and may be cited as the "Greater Asheville
6 Regional Airport Authority Act."

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

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

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

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

24 **SECTION 4.(a)** The Authority shall consist of seven members of whom:

25 (1) Two shall be registered voters of the City of Asheville appointed by the
26 Asheville City Council. One appointment must have experience with the
27 travel and tourism industry and one appointment must have experience in
28 finance and accounting.

29 (2) Two shall be registered voters of the County of Buncombe appointed by the
30 Board of Commissioners of Buncombe County. One appointment must have
31 experience in aviation and one must have experience in marketing and
32 business development.

33 (3) Two shall be registered voters of the County of Henderson appointed by the
34 Board of Commissioners of Henderson County. One appointment must have



1 experience in either or both of construction or facilities, and one
2 appointment must have experience with logistics.

3 (4) One shall be appointed by the other six members to serve a four-year term.

4 **SECTION 4.(a1)** No person holding any elected public office may be a member of
5 the Authority.

6 **SECTION 4.(b)** A person who, at the time of the appointment, is transacting
7 business with the Authority or who is reasonably expected to transact business with the
8 Authority may not be appointed as a member of the Authority, provided this sentence does not
9 apply to a public utility which is the sole available supplier. A person who, at the time of the
10 appointment, is an employee, agent, or consultant to the Authority may not be appointed as a
11 member of the Authority.

12 **SECTION 4.(c)** Of the initial members each appointed by the Asheville City
13 Council, the Board of Commissioners of Buncombe County, and the Board of Commissioners
14 of Henderson County, one member shall serve a term of two years, and one member shall serve
15 a term of four years. All succeeding members of the Authority shall serve four-year terms.
16 Members of the Authority may serve up to a total of two successive four-year terms. Initial
17 terms begin July 1, 2011.

18 **SECTION 4.(d)** Any vacancy occurring among the membership of the Authority
19 shall be filled by appointment of the appointing authority of a member to serve for the
20 unexpired term thereof, such appointment to be made within 60 days after notice of the vacancy
21 thereof.

22 **SECTION 4.(e)** Each of the members and his or her successor so appointed shall
23 take and subscribe to an oath of office before an officer authorized to administer oaths and file
24 certified copies of the same with the authority.

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

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

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

36 **SECTION 5.(a)** The organization and business of the Authority shall be conducted
37 as provided in this act.

38 **SECTION 5.(b)** The members of the Authority, for the purpose of doing business,
39 shall constitute a board of directors, which may adopt suitable bylaws, not inconsistent with the
40 provisions of this act, for its management.

41 **SECTION 5.(c)** The Authority shall appoint from its voting members a chairman,
42 vice-chairman, and other officers as it may deem necessary for the orderly conduct of its
43 business.

44 **SECTION 5.(d)** Each member of the Authority, including the chairman, shall have
45 one vote. A majority of the duly appointed and qualified members of the Authority shall
46 constitute a quorum.

47 **SECTION 5.(e)** The Authority shall hold meetings at least monthly at such times
48 and places as it from time to time may designate and at such other times on the call of the
49 chairman or by four voting members of the Authority, provided at least five days' notice is
50 given. The Authority may cancel a monthly meeting if it is determined by the chairman or four
51 voting members that a monthly meeting is not required.

1 **SECTION 5.(f)** The members of the Authority may receive annual compensation
2 to be determined jointly by the three appointing authorities, but not to exceed two thousand
3 dollars (\$2,000) per year. Members may also receive paid travel, lodging, and meal expenses
4 incurred in transacting business on behalf of the Authority. Members may also receive parking,
5 either daily or extended, during the term in which they serve.

6 **SECTION 5.(g)** The fiscal year of the Authority shall begin July 1 and end June
7 30. On or before May 15 of each calendar year, the Authority shall prepare and adopt a
8 proposed budget for the next ensuing fiscal year and file copies of such proposed budget with
9 the Buncombe and Henderson County Boards of Commissioners and the Asheville City
10 Council.

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

13 **SECTION 6.(a)** The Authority shall constitute a body, both corporate and politic,
14 and shall have the power and authority to do the following:

- 15 (1) Adopt an official seal and alter the same at its pleasure.
- 16 (2) Maintain an office at such place or places as it may designate within
17 Buncombe or Henderson Counties only.
- 18 (3) Purchase, acquire, establish, construct, own, control, lease, equip, improve,
19 maintain, operate, and regulate airports or landing fields for the use of
20 airplanes and other aircraft and all facilities incidental to the operation of
21 such airports or landing fields, within the limits of Buncombe and
22 Henderson Counties; and for any of such purposes, to purchase, acquire,
23 own, hold, lease, and operate real or personal property.
- 24 (4) Purchase real or personal property.
- 25 (5) Sue or be sued in the name of the Authority, to acquire by purchase and to
26 hold lands for the purpose of constructing, maintaining, or operating any
27 airport within the limits of said counties, and to make such contracts and to
28 hold such personal property as may be necessary for the exercise of the
29 powers of the Authority. The Authority may acquire by purchase, or
30 otherwise, any existing lease, leasehold right, or other interest in any existing
31 airport facility located in the counties of Buncombe and Henderson.
- 32 (6) Charge and collect reasonable and adequate fees, royalties, rents, or other
33 charges, including fuel flowage fees, for the use of property owned, leased,
34 or otherwise controlled or operated by the Authority or for services rendered
35 in the operation thereof.
- 36 (7) Make all reasonable rules and regulations as it deems necessary for the
37 proper maintenance, use, operation, and control of any airport or airport
38 facilities owned, leased, or controlled by the Authority; to provide penalties
39 for the violation of such rules and regulations; provided said rules and
40 regulations and penalties be not in conflict with the laws of the State of
41 North Carolina and the rules and regulations of the Federal Aviation
42 Administration.
- 43 (8) Sell, or otherwise dispose of, any property, real or personal, belonging to the
44 Authority.
- 45 (9) Purchase such insurance as the Authority shall deem necessary.
- 46 (10) The Authority is further authorized and fully empowered to maintain and
47 operate any airport or landing field jointly with any adjoining county or
48 counties or jointly with other aviation/airport authorities operating under
49 authorization from one or more adjoining counties of the municipalities
50 therein.

- 1 (11) Deposit or invest and reinvest any of its funds as provided by the Local
2 Government Finance Act, as it may be amended from time to time, for the
3 deposit or investment of unit funds.
- 4 (12) Issue revenue bonds and/or refunding bonds pursuant to the provision of the
5 Local Government Revenue Bond Act.
- 6 (13) Purchase any of its outstanding bonds or notes.
- 7 (14) Operate, own, lease, control, regulate, or grant to others the right to operate
8 on any airport premises, restaurants, snack bars and vending machines, food
9 and beverage dispensing outlets, rental car services, catering services,
10 novelty shops, insurance sales, advertising media, merchandising outlets,
11 motels, hotels, barber shops, automobile parking and storage facilities,
12 automobile service stations, garage service facilities, motion picture shows,
13 personal service establishments, and all other types of facilities as may be
14 directly or indirectly related to the maintenance and furnishing of the public
15 commercial and general aviation airport facilities.
- 16 (15) Accept grants of money or materials or property of any kind for any airport
17 facilities from any federal or State agency, political subdivision, or other
18 public body or from any private agency or individual, upon such terms and
19 conditions as may be imposed, and to enter into contracts and grants
20 agreements with the Federal Aviation Administration, or any successor or
21 successors thereof, and with the State of North Carolina or any of its
22 agencies, in the capacity of sponsor or cosponsor of any airport development
23 project involving the acquisition, construction, reconstruction, improvement,
24 extension, enlargement, or equipment of any airport facilities owned or
25 operated by the Authority, pursuant to any federal or State law providing for
26 aid to airports.
- 27 (16) Employ and fix the compensation of an airport director who shall manage
28 the affairs of the Authority under the supervision of the Authority. Such
29 managing director may be given any title suitable to the Authority. The
30 Authority may also employ such agents, engineers, attorneys, and other
31 persons whose services may be deemed by the Authority to be necessary.
- 32 (17) Make or cause to be made such surveys, investigations, studies, borings,
33 maps, plans, drawings, and estimates of cost and revenues as the Authority
34 may deem necessary and may prepare and adopt a comprehensive plan or
35 plans for the location, construction, improvement, and development of any
36 project.
- 37 (18) Exercise all of the powers conferred by Chapter 63 of the General Statutes.

38 **SECTION 6.(b)** The authority has the same exemptions in respect to payment of
39 taxes and license fees as provided for municipal corporations by the laws of the State of North
40 Carolina.

41 **SECTION 7.(a)** The Authority is hereby authorized and empowered to acquire
42 from the Counties of Buncombe and Henderson and the City of Asheville, by agreement
43 therewith, and such counties and cities are hereby authorized and empowered to grant and
44 convey, either by gift or for such consideration as it may be deemed wise, any real or personal
45 property which it now owns or may hereafter be acquired, and which may be necessary for the
46 construction, operation, and maintenance of any airport or facilities of same located in the
47 Counties of Buncombe or Henderson. If the airport ceases to operate or if the airport authority
48 is dissolved, any real property of the Counties of Buncombe or Henderson or the City of
49 Asheville conveyed to the authority under this act shall revert to the grantor.

50 **SECTION 7.(b)** The City of Asheville, the County of Buncombe, and the County
51 of Henderson shall transfer to the Authority within 90 days after enactment of this act all its

1 right, title, and interest to the property known as the Asheville Regional Airport, except if
2 approval of a federal agency is required, then within 90 days of that approval.

3 **SECTION 7.(c)** Private property needed by the Authority for any airport, landing
4 field, or facilities of same may be acquired by gift or devise, or by private purchase. Aviation
5 easements needed by the Authority for any airport, landing field, or facilities of same may
6 likewise be acquired by gift, devise, or private purchase. Unless the power of eminent domain
7 is required by federal law or federal regulation, Chapter 40A of the General Statutes does not
8 apply to the Authority, and it may not exercise the power of eminent domain. If a federal law or
9 federal regulation does require the Authority to have the power to exercise eminent domain, it
10 may only do so for public use for airport purposes, and any eminent domain proceeding must
11 be authorized jointly by all of the three appointing authorities.

12 **SECTION 7.(d)** Any lands acquired, owned, controlled, or occupied by the
13 Authority shall and are hereby declared to be acquired, owned, controlled, and occupied for a
14 public purpose.

15 **SECTION 7.(e)** The Authority is not authorized to levy any tax.

16 **SECTION 8.** The Authority shall make annual reports to the Buncombe County
17 Board of Commissioners, the City of Asheville City Council, and the Henderson County Board
18 of Commissioners setting forth the operations and transactions conducted by it pursuant to this
19 act. The Authority shall be regarded as the corporate instrumentality and agent for Buncombe
20 and Henderson Counties and the City of Asheville for the purpose of developing aviation
21 facilities in the Counties of Buncombe and Henderson, but it shall have no power to pledge the
22 credit of the Counties of Buncombe or Henderson or the City of Asheville, or any subdivision
23 thereof, or to impose any obligation upon those counties, or the City of Asheville, or any
24 subdivision thereof, except and when such power is expressly granted by statute.

25 **SECTION 9.** All rights and powers given to the counties or municipalities by the
26 statutes of North Carolina, which may now be in effect, or may be enacted in the future,
27 relating to the development, regulation, and control of municipal airports and the regulations of
28 aircraft are hereby vested in the said Authority.

29 **SECTION 10.** The Authority is hereby expressly authorized to make and enter into
30 contracts, leases, conveyances, and other agreements with any political subdivision, agency, or
31 instrumentality of the State, any federal agencies, legal entities, and persons for the purpose of
32 carrying out the provisions of this act.

33 **SECTION 11.** The powers of the Authority created by this act shall be construed
34 liberally in favor of the Authority. No listing of powers included in this act is intended to be
35 exclusive or restrictive, and the specific mention of, or failure to mention, particular powers in
36 this act shall not be construed as limiting in any way the general powers of the Authority as
37 stated in Section 6 of this act. It is the intent of this act to grant the Authority full power and
38 right to exercise all authority necessary for the effective operation and conduct of the
39 Authority. It is further intended that the Authority should have all implied powers necessary or
40 incidental to carrying out the expressed powers and the expressed purposes for which the
41 Authority is created. The fact that this act specifically states that the Authority possesses a
42 certain power does not mean that the Authority must exercise such power unless this act
43 specifically so requires.

44 **SECTION 12.** If any provision of this act or its application is held invalid, the
45 invalidity does not affect other provisions or applications of this act that can be given effect
46 without the invalid provisions or application, and to this end the provisions of this act are
47 severable.

48 **SECTION 13.** This act is effective when it becomes law.