

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 649*

Economic Development Committee Substitute Adopted 5/13/91

House Committee Substitute Favorable 7/11/91

Passed 2nd Reading - Ordered Engrossed 7/12/91

Short Title: Air Cargo Airport Authority.

(Public)

Sponsors:

Referred to:

April 16, 1991

A BILL TO BE ENTITLED

AN ACT TO CREATE THE NORTH CAROLINA AIR CARGO AIRPORT
AUTHORITY, TO AUTHORIZE THE ISSUANCE OF REVENUE BONDS TO
FINANCE AIRPORT AND INDUSTRIAL FACILITIES, TO AUTHORIZE
UNITS OF LOCAL GOVERNMENT TO TAKE CERTAIN ACTIONS RELATED
TO CARGO AIRPORT COMPLEXES, AND TO MAKE CONFORMING
CHANGES TO OTHER STATUTES.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is added to the General Statutes to read:

“CHAPTER 63A.

“NORTH CAROLINA AIR CARGO AIRPORT AUTHORITY.

“§ 63A-1. Short title and intent.

This Chapter is the ‘North Carolina Air Cargo Airport Authority Act.’ It is enacted in part pursuant to Article V, Section 13, of the North Carolina Constitution with the intent that the body politic and corporate created by this Chapter shall have all power and authority as may be provided to it under that section of the Constitution.

“§ 63A-2. Definitions.

The following definitions apply in this Chapter:

(1) Aircraft. – A contrivance that is used or designed for flight.

- 1 (2) Airport project. – Any of the following that is part of or is used in
2 connection with a cargo airport or a facility at a cargo airport complex
3 site and is not a special user project:
4 a. Land, equipment, or buildings or other structures, whether
5 located on one or more sites.
6 b. The addition to or the rehabilitation, improvement, renovation,
7 or enlargement of any property described in subpart a.
8 The term includes infrastructure improvements, such as improvements
9 to railroad facilities, roads, bridges, and water, sewer, or electric
10 utilities even if not located on a cargo airport complex site. An airport
11 project may include a facility leased to one or more entities under a
12 true lease.
13 (3) Authority. – The North Carolina Air Cargo Airport Authority.
14 (4) Board. – The Board of Directors of the Authority.
15 (5) Bonds. – The revenue bonds or other interest bearing obligations
16 authorized to be issued by the Authority under this Chapter.
17 (6) Cargo airport. – Any area of land or water that is designed for the
18 landing and takeoff of aircraft, any appurtenant area used or suitable
19 for airport buildings or other airport facilities, and any appurtenant
20 right-of-way. In addition to facilities for the transportation of cargo by
21 aircraft, a cargo airport may contain facilities to shelter, service, or
22 repair aircraft and facilities to discharge and receive passengers.
23 (7) Cargo airport complex. – A cargo airport and all other facilities,
24 including private facilities, related to the cargo airport that are located
25 within the cargo airport complex site.
26 (8) Cargo airport complex site. – The area designated by the Authority as
27 the location of a cargo airport complex. An area may not be so
28 designated by the Authority unless all or a substantial portion of the
29 land on which the cargo airport is located or is to be located is or shall
30 be owned by the Authority.
31 (9) Costs. – The capital cost of a project, including:
32 a. The costs of doing any or all of the following:
33 1. Acquiring, constructing, erecting, providing, developing,
34 installing, furnishing, and equipping.
35 2. Reconstructing, remodeling, altering, renovating,
36 replacing, refurbishing, and reequipping.
37 3. Enlarging, expanding, and extending.
38 4. Demolishing, relocating, improving, grading, draining,
39 landscaping, paving, widening, and resurfacing.
40 b. The costs of all property, both real and personal and both
41 improved and unimproved, and of plants, works, appurtenances,
42 structures, facilities, furnishings, machinery, equipment,
43 vehicles, easements, water rights, air rights, franchises, and
44 licenses used or useful in connection with the project.

- 1 c. The costs of demolishing or moving structures from land
2 acquired and acquiring land to which the structures are to be
3 moved.
- 4 d. Financing charges, including estimated interest during the
5 acquisition or construction of a project and for one year
6 thereafter.
- 7 e. The costs of services to provide plans, specifications, studies,
8 reports, surveys, and estimates of costs and revenues.
- 9 f. The costs of paying any interim financing, including principal,
10 interest and premium, related to the acquisition or construction
11 of the project.
- 12 g. Administrative and legal expenses and administrative charges.
- 13 h. The costs of obtaining bond and reserve fund insurance and
14 investment contracts, of credit-enhancement facilities, liquidity
15 facilities, and interest-rate agreements, and of establishing and
16 maintaining debt service and other reserves.
- 17 i. Any other services, costs, and expenses necessary or incidental
18 to the project.
- 19 (10) Credit facility. – An agreement with a banking institution, an insurance
20 institution, an investment institution, or other financial institution
21 located inside or outside the United States of America that provides for
22 prompt payment, whether at maturity, presentment, or tender for
23 purchase, redemption, or acceleration, of part or all of the principal or
24 purchase price, redemption premium, if any, and interest on a bond or
25 note issued by the Authority and for repayment of the institution.
- 26 (11) Financing agreement. – A written instrument establishing the rights
27 and responsibilities of the Authority and the operator concerning a
28 special user project financed by the issuance of bonds. A financing
29 agreement may be a lease, a lease and lease-back, a sale and lease-
30 back, a lease purchase, an installment sale and purchase agreement, a
31 conditional sales agreement, a secured or unsecured loan agreement, or
32 other similar contract, and may involve property in addition to the
33 property financed with the bonds.
- 34 (12) Local Government Commission. – The Local Government
35 Commission of the Department of State Treasurer, established by
36 Article 2 of Chapter 159 of the General Statutes.
- 37 (13) Notes. – Revenue notes or revenue bond anticipation notes issued by
38 the Authority under this Chapter.
- 39 (14) Obligor. – A person, including an operator, who has entered into a
40 financing or other agreement obligating the person to make payments
41 to the Authority or to holders of bonds issued to finance a special user
42 project.
- 43 (15) Operator. – The person entitled to the use or occupancy of a special
44 user project.

- 1 (16) Par formula. – A provision or formula to make periodic adjustments in
2 the interest rate of a bond or note, including:
3 a. A provision for an adjustment to keep the purchase price of the
4 bond or note in the open market as close to par as possible.
5 b. A provision for an adjustment based on one or more
6 percentages of a prime rate or base rate that may vary or apply
7 for specified periods of time.
8 c. Any other provision that does not materially and adversely
9 affect the financial position of the Authority and the marketing
10 of the bonds or notes at a reasonable interest cost to the
11 Authority.
12 (17) Person. – Any person, corporation, partnership, association, trust, or
13 other legal entity.
14 (18) Project. – An airport project or a special user project.
15 (19) Revenues. – For a special user project, the term means rents, fees,
16 charges, payments, proceeds, or other income or profit derived from
17 the special user project or from the financing agreement or security
18 document for the special user project. For an airport project, the term
19 means rents, fees, charges, payments, proceeds, or other income or
20 profit derived from the airport project or from any pledge of nontax
21 revenues, appropriation, or payment made by the State or a county in
22 which the cargo airport is located or from any pledge of tax revenues
23 made by a county under G.S. 63A-15.
24 (20) Security document. – One or more written instruments establishing the
25 rights and responsibilities of the Authority and the holders of bonds
26 issued to finance a special user project. A security document may
27 provide for, or be in the form of an agreement with, a trustee for the
28 benefit of the bondholders. A security document may contain an
29 assignment, pledge, mortgage, or other encumbrance of part or all of
30 the Authority's interest in, or right to receive revenues from, a special
31 user project or any other property provided by the operator or other
32 obligor under a financing agreement. A financing agreement and a
33 security document may be combined as one instrument.
34 (21) Special user project. – Any land, equipment, or buildings or other
35 structures located on one or more sites within a cargo airport complex
36 site and the addition to or the rehabilitation, improvement, renovation,
37 or enlargement of a structure located within a cargo airport complex
38 site when the property is to be used as or in connection with any of the
39 following:
40 a. An undertaking for industry, including an industrial or a
41 manufacturing factory, mill, assembly plant, or fabricating
42 plant, a freight terminal, an industrial research, development, or
43 laboratory facility, or an industrial processing or distribution
44 facility for industrial or manufactured products.

1 b. A commercial, processing, mining, transportation, distribution,
2 storage, marine, aviation, or environmental facility or
3 improvement.

4 c. Any combination of items mentioned in subparts a. and b.

5 A special user project, during its economic life, is to be principally
6 used by one or more for-profit entities other than as lessee under a true
7 lease. A special user project may include all appurtenances and
8 incidental facilities such as land, a headquarters or office facility,
9 warehouses, distribution centers, access roads, sidewalks, utilities,
10 railway sidings, trucking and similar facilities, parking facilities,
11 waterways, docks, wharves, and other improvements necessary or
12 convenient for the construction, maintenance, and operation of any
13 structure.

14 (22) True lease. – A lease that has a fair market value rental and is not
15 treated as a financing lease or installment sale for federal tax law
16 purposes.

17 **"§ 63A-3. Creation of Authority and Board.**

18 (a) Creation. The North Carolina Air Cargo Airport Authority is created as a
19 body corporate and politic having the powers and jurisdiction as provided under this
20 Chapter or any other law. The Authority is a State agency created to perform essential
21 governmental and public functions. The Authority shall be located within the
22 Department of Transportation, but shall exercise all of its powers, including the power
23 to employ, direct, and supervise all personnel, independently of the Secretary of
24 Transportation and, notwithstanding any other provision of law, shall be subject to the
25 direction and supervision of the Secretary only with respect to the management
26 functions of coordinating and reporting.

27 (b) Board of Directors. The Authority shall be governed by a Board of Directors.
28 The Board shall consist of at least the following 14 members:

29 (1) Seven members appointed by the Governor.

30 (2) Three members appointed by the General Assembly upon the
31 recommendation of the Speaker of the House of Representatives in
32 accordance with G.S. 120-121.

33 (3) Three members appointed by the General Assembly upon the
34 recommendation of the President Pro Tempore of the Senate in
35 accordance with G.S. 120-121.

36 (4) The State Treasurer, who shall serve as an ex officio non-voting
37 member.

38 The Board may consist of more than 14 members if more members are appointed by
39 boards of county commissioners in accordance with this subsection. Within 90 days
40 after the Authority acquires land, either by purchase or condemnation, for development
41 as part of a cargo airport complex site, the board of county commissioners in any county
42 in which a portion of the land is located may, by resolution, appoint a person to serve as
43 a member of the Board. If the board of commissioners appoints one of its own
44 members to the Board, the county commissioner who is appointed is considered to be

1 serving on the Board as an ex officio voting member as part of the duties of the office of
2 county commissioner, in accordance with G.S. 128-1.2, and is not considered to be
3 serving in a separate office.

4 As the holder of an office, each member of the Board shall take the oath required by
5 Article VI, § 7 of the North Carolina Constitution before assuming the duties of a Board
6 member.

7 (c) Selection Criteria. Of the members appointed by the Governor, at least two
8 shall be residents of the western region of the State, at least two shall be residents of the
9 piedmont region of the State, and at least two shall be residents of the eastern region of
10 the State. In addition, at least one member appointed by the Governor shall be
11 representative of business, at least one shall be representative of agribusiness, at least
12 one shall be representative of environmental interests, and at least one shall be
13 representative of industrial interests.

14 Of the members appointed by the General Assembly upon the recommendation of
15 the President Pro Tempore of the Senate, one shall be a resident of the western region of
16 the State, one shall be a resident of the piedmont region of the State, and one shall be a
17 resident of the eastern region of the State. Of the members appointed by the General
18 Assembly upon the recommendation of the Speaker of the House of Representatives,
19 one shall be a resident of the western region of the State, one shall be a resident of the
20 piedmont region of the State, and one shall be a resident of the eastern region of the
21 State.

22 (d) Terms. Except for the terms of the initial Board members, Board members
23 shall serve two-year terms that begin on July 1. The terms of the initial members
24 appointed by the Governor or the General Assembly end June 30, 1993. The initial
25 term of a member appointed by a board of county commissioners ends on the second
26 June 30 after the appointment.

27 (e) Chair and Vice-chair of the Board. The Governor shall designate one of the
28 members appointed by the Governor as the Chair of the Board. The Governor shall
29 convene the first meeting of the Board, at which time the members of the Board shall
30 elect from their membership a Vice-chair of the Board.

31 (f) Vacancies. All members of the Board shall remain in office until their
32 successors are appointed and qualify. A vacancy in an appointment made by the
33 Governor or a board of county commissioners shall be filled by the Governor or the
34 board of county commissioners for the remainder of the unexpired term. A vacancy in
35 an appointment made by the General Assembly shall be filled in accordance with G.S.
36 120-122. A person appointed to fill a vacancy shall qualify in the same manner as a
37 person appointed for a full term.

38 (g) Removal of Board Members. The Governor may remove any member of the
39 Board for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-
40 13(d). The person who appointed a member of the Board may remove the member for
41 using improper influence in accordance with G.S. 143B-13(c).

42 (h) Organization of the Board. The Board shall adopt bylaws with respect to the
43 calling of meetings, quorums, voting procedures, the keeping of records, and other
44 organizational and administrative matters as the Board may determine. A quorum shall

1 consist of at least eight members of the Board. No vacancy in the membership of the
2 Board shall impair the right of a quorum to exercise all rights and to perform all the
3 duties of the Board and the Authority.

4 (i) Compensation of the Board. No part of the revenues or assets of the
5 Authority shall inure to the benefit of or be distributable to the members of the Board or
6 officers or other private persons. The members of the Board shall receive no salary for
7 their services but shall be entitled to receive per diem and allowances in accordance
8 with the provisions of G.S. 138-5.

9 (j) Treasurer. The Board shall select the Authority's treasurer. The Board shall
10 require a surety bond of the appointee in the amount as the Board may fix, and the
11 premium shall be paid by the Authority as a necessary expense of the Authority.

12 (k) Executive Director and other Employees. The Board shall appoint an
13 executive director, whose salary shall be fixed by the Board, to serve at its pleasure. The
14 executive director or a person designated by the executive director shall appoint,
15 employ, dismiss, and, within the limits of available funding, fix the compensation of
16 other employees as considered necessary.

17 (l) Office. The Board shall establish an office for the transaction of the
18 Authority's business at the place the Board finds advisable or necessary to implement
19 the provisions of this Chapter.

20 **"§ 63A-4. Powers of the Authority.**

21 (a) The Authority shall have all of the powers necessary to execute the provisions
22 of this Chapter, which shall include at least the following powers:

23 (1) The powers of a corporate body, including the power to sue and be
24 sued, to make contracts, to adopt and use a common seal, and to alter
25 the adopted seal as needed.

26 (2) To establish, finance, purchase, construct, operate, and regulate cargo
27 airport complexes and to own, finance, lease, sell, or manage real or
28 personal property.

29 (3) To charge and collect fees and rents for the use of the cargo airport
30 complexes or for services rendered in the operation of the complexes.

31 (4) To contract and enter into agreements with the State, local
32 governments, other authorities of North Carolina, and other states for
33 the interchange of business and to facilitate the business of cargo
34 airport complexes.

35 (5) To rent, lease, purchase, acquire, own, encumber, dispose of, or
36 mortgage real or personal property, including the power to acquire
37 property by eminent domain pursuant to G.S. 63A-6.

38 (6) To establish, construct, purchase, maintain, equip, and operate any
39 structure or facilities to aid commerce associated with a cargo airport
40 complex, including the construction of highways, bridges, shipping
41 facilities, electronic cargo transfer systems, mass transit systems, and
42 other transportation facilities. Before constructing a highway or a
43 bridge, the Authority shall consult with the Department of
44 Transportation.

- 1 (7) To create and operate agencies and departments needed to implement
2 this Chapter.
- 3 (8) To pay all necessary costs and expenses in the formation, organization,
4 administration, and operation of the Authority.
- 5 (9) To apply for, accept, and administer loans and grants of money from
6 any federal agency, from the State or its political subdivisions, or from
7 any other public or private sources available, to expend the money in
8 accordance with the requirements imposed by the lender or donor, and
9 to give any evidences of indebtedness that are required. No
10 indebtedness of any kind incurred or created by the Authority shall
11 constitute an indebtedness of the State or its political subdivisions, and
12 no indebtedness of the Authority shall involve or be secured by the
13 faith, credit, or taxing power of the State or its political subdivisions
14 except indirectly as permitted by G.S. 63A-15.
- 15 (10) To adopt, alter, or repeal its own bylaws or rules implementing the
16 provisions of this Chapter.
- 17 (11) To execute financing agreements, security documents, and other
18 instruments necessary in exercising its power under this Chapter.
- 19 (12) To fix, charge, collect, pledge, or assign revenues of the Authority.
- 20 (13) To employ consulting engineers, architects, attorneys, real estate
21 counselors, appraisers, and other consultants and employees as may be
22 required in the judgment of the Board and to fix and pay their
23 compensation from funds available to the Authority, and, when
24 approved by the Local Government Commission under G.S. 159-
25 123(e) and (f) as if the Authority were an issuing unit, to select and
26 retain financial consultants, underwriters, and bond attorneys in
27 connection with the issuance of any bonds and to pay for their services
28 out of the proceeds of any bond issue for which their services were
29 performed.
- 30 (14) To issue bonds or notes of the Authority as provided under this
31 Chapter to pay the costs of a project.
- 32 (15) To issue revenue refunding bonds of the Authority as provided under
33 this Chapter.
- 34 (16) To procure and maintain adequate insurance or otherwise provide for
35 adequate protection to indemnify the Authority and its officers,
36 directors, agents, employees, adjoining property owners, or the general
37 public against loss or liability resulting from any act or omission by or
38 on behalf of the Authority.
- 39 (17) To purchase or finance real or personal property in the manner
40 provided for cities and counties under G.S. 160A-20.
- 41 (18) To enter into agreements with counties pursuant to G.S. 63A-15 and
42 request the Local Government Commission to enforce, pursuant to
43 Chapter 159 of the General Statutes, the agreements and any pledges
44 made with respect to the agreements.

- 1 (19) To exercise the powers granted political subdivisions under Article 4,
2 Chapter 63 of the General Statutes, and to exercise the powers granted
3 to municipalities and counties under Article 6, Chapter 63 of the
4 General Statutes, governing public airports and related facilities.
- 5 (20) To act as agent for the United States of America or any agency of the
6 United States in any matter within the purpose of this Chapter. When
7 acting as agent for the United States or one of its agencies, the
8 Authority shall keep the interest of the State paramount.
- 9 (21) With the approval of any unit of local government, to use officers,
10 employees, agents, and facilities of the unit of local government for the
11 purposes and upon the terms as may be mutually agreeable.
- 12 (22) To issue obligations, without Local Government Commission
13 approval, to finance the purchase or acquisition of land or options on
14 land. An obligation may be secured by the land purchased or acquired,
15 may be unsecured, or may be made payable from revenues, the
16 proceeds of notes, bonds, or the sale of any lands, the proceeds of any
17 bonds of the State or moneys appropriated by the State, or any other
18 available moneys of the Authority. An obligation to finance the
19 purchase or acquisition of land or options on land may be sold only to
20 the Escheat Fund as an investment of the Fund pursuant to G.S. 147-
21 69.2(b)(11).
- 22 (23) To receive and use appropriations from the State, including an
23 appropriation from the proceeds of State general obligation bonds or
24 notes.

25 (b) To execute the powers provided in subsection (a) of this section, the Board
26 shall determine the policies of the Authority by majority vote of the members of the
27 Board present and voting, a quorum having been established. Once a policy is
28 determined, the Board shall communicate it to the executive director, who shall have the
29 sole and exclusive authority to execute the policy of the Authority. No member of the
30 Board shall have the responsibility or authority to give operational directives to any
31 employee of the Authority other than the executive director.

32 **"§ 63A-5. Taxation of property of Authority.**

33 Property owned by the Authority is exempt from taxation in accordance with Article
34 V, § 2 of the North Carolina Constitution. Property that is part of or is located on a
35 cargo airport complex site and is not owned by the Authority, including property that is
36 part of a special user project, is not exempt from tax due to its location.

37 **"§ 63A-6. Acquisition, disposition, or exchange of real property.**

38 (a) General. The Authority may acquire real property by purchase, negotiation,
39 gift, devise, or eminent domain. Any acquisition or disposition by the Authority of real
40 property or an estate or interest in real property must be reviewed and approved by the
41 Council of State before it can become effective. When the Authority acquires real
42 property owned by the State, the Secretary of the Department of Administration shall
43 execute and deliver to the Authority a deed transferring fee simple title to the property
44 to the Authority.

1 (b) Eminent Domain. To exercise the power of eminent domain, the Authority
2 shall commence a proceeding in its name and may follow any procedure set by law by
3 which a State agency or a political subdivision of the State may exercise the power of
4 eminent domain. As with other acquisitions, however, the Authority's exercise of the
5 power of eminent domain is subject to review and approval by the Council of State.

6 The Authority's power of eminent domain applies to all property, including property
7 that is owned by a State agency or a political subdivision of the State and is already
8 devoted to a specific use other than as an airport established under Chapter 63 of the
9 General Statutes. The Authority may acquire by eminent domain property that is owned
10 by a political subdivision and is used as an airport established under Chapter 63 of the
11 General Statutes only after obtaining the approval of the governing body of each
12 political subdivision that established the airport. The Authority may not begin an
13 eminent domain proceeding before it obtains the Council of State's approval for the
14 acquisition of the property to be condemned.

15 (c) Exchange. The Authority may exchange any property it acquires for other
16 property usable in carrying out the powers conferred on the Authority and also, upon the
17 payment of just compensation, may remove a building, a terminal, or another structure
18 from land needed for its purposes and reconstruct the structure on another location. The
19 Authority may not use the power of eminent domain to acquire property for exchange.

20 (d) During consideration of site selection for a cargo airport complex, the
21 Authority shall take into account the following:

22 (1) Local comprehensive plans, including education, emergency response,
23 law enforcement, water supply, stormwater management, solid waste
24 management, and wastewater treatment.

25 (2) Local land use regulations, including appearance, floodplain zoning,
26 subdivision zoning, and watershed protection elements.

27 (3) The capability of local governments to provide services and manage
28 growth and development related to establishment of a cargo airport
29 complex.

30 **"§ 63A-7. Police power.**

31 (a) The Authority has jurisdiction within a cargo airport complex site. The
32 Board may adopt ordinances regulating traffic and parking within the cargo airport
33 complex site and for the safety and welfare of those using the cargo airport complex. An
34 ordinance adopted under this subsection shall be recorded in the minutes of the Board.
35 A copy of the ordinance shall be filed in the office of the Attorney General of North
36 Carolina and shall be posted at appropriate places in the cargo airport complex site.
37 Any person who violates an ordinance of the Authority is guilty of a misdemeanor and
38 is punishable by a fine of up to fifty dollars (\$50.00) or imprisonment for up to 30 days.

39 (b) The executive director of the Authority may designate employees of the
40 Authority as special police officers. A person designated as a special police officer has
41 jurisdiction within the cargo airport complex site to arrest a person who violates any
42 federal or State law or any ordinance of the Authority and has other powers to the same
43 extent as police officers of incorporated municipalities. An employee designated as a

1 special police officer shall take the oath of a law enforcement officer set out in G.S. 11-
2 11.

3 **"§ 63A-8. Authority funds.**

4 All Authority funds shall be deposited in one or more banks to be designated by the
5 Board. Funds of the Authority shall be paid out only upon warrants signed by the
6 treasurer or assistant treasurer of the Authority and countersigned by the chair, the
7 acting chair, or the executive director. No warrants shall be drawn or issued disbursing
8 any of the funds of the Authority except for a purpose authorized by this Chapter and
9 only when the account or expenditure has been audited and approved by the Authority
10 or its executive director.

11 **"§ 63A-9. Bonds and notes.**

12 (a) The Authority may provide for the issuance, at one time or from time to time,
13 of bonds and notes, including bond anticipation notes and renewal notes, of the
14 Authority to carry out its corporate purposes including financing the costs of projects.
15 The principal of and interest on the bonds or notes shall be payable from funds provided
16 under this Chapter for their payment. A bond anticipation note may be made payable
17 from the proceeds of bonds or renewal notes or, in the event bond or renewal note
18 proceeds are not available, from any available Authority revenues or other funds
19 provided for this purpose. Bonds and notes may also be paid from the proceeds of any
20 credit facility.

21 All bonds, notes, or refunding bonds or notes of the Authority are subject to this
22 section and G.S. 63A-10. All bonds, notes, or refunding bonds or notes to finance or
23 refinance a special user project are also subject to G.S. 63A-11.

24 The bonds and notes of each issue shall be dated and may be made redeemable prior
25 to maturity at the option of the Authority or otherwise, at one or more prices, on one or
26 more dates, and upon the terms and conditions set by the Authority. The bonds or notes
27 may also be made payable from time to time on demand or tender for purchase by the
28 owner upon terms and conditions set by the Authority.

29 A bond or note shall bear interest at a rate or rates, including variable rates, as
30 determined by the Local Government Commission with the approval of the Authority.
31 A bond or note may be secured by a reserve fund created for that purpose and funded
32 from proceeds of the bond or note, revenues, or any other source of funds available to
33 the Authority.

34 (b) In fixing the details of bonds or notes, the Authority may provide that the
35 bonds or notes may:

36 (1) Be payable from time to time on demand or tender for purchase by the
37 owner of the bond or note if a credit facility supports the bond or note,
38 unless the Local Government Commission specifically determines that
39 a credit facility is not required because the absence of a credit facility
40 will not materially and adversely affect the financial position of the
41 Authority and the marketing of the bonds or notes at a reasonable
42 interest cost to the Authority.

43 (2) Be additionally supported by a credit facility.

- 1 (3) If the bonds or notes are issued to finance an airport project, be
2 additionally supported by a pledge of any agreement entered into
3 pursuant to G.S. 63A-15.
4 (4) Be made subject to redemption or a mandatory tender for purchase
5 prior to maturity.
6 (5) Be capital appreciation bonds.
7 (6) Bear interest at a rate or rates that may vary, including variations
8 permitted pursuant to a par formula.
9 (7) Be made the subject of a remarketing agreement whereby an attempt is
10 made to remarket the bonds or notes to new purchasers prior to their
11 presentment for payment to the provider of the credit facility or to the
12 Authority.

13 (c) Notes and bonds shall mature at the times determined by the Authority, not to
14 exceed 40 years from the date of issue. The Authority shall determine the form and
15 manner of execution of a bond or note, including any interest coupons to be attached to
16 the bond or note. The Authority shall fix the denominations and places of payment of
17 principal and interest of the bond or note. The principal of and interest on a bond or
18 note may be paid at any bank or trust company, whether located inside or outside the
19 United States of America.

20 (d) The validity of a bond, note, or coupon that has the signature or facsimile
21 signature of a person who was an officer when the bond, note, or coupon was signed or
22 the facsimile signature attached but who is not that officer when the bond, note, or
23 coupon is delivered is not affected by the change in officers. A bond, note, or coupon
24 may bear the signature or facsimile signature of a person who will be the proper officer
25 to sign the bond, note, or coupon when it is executed but who is not the officer on the
26 date of the bond, note, or coupon.

27 (e) The Authority may provide for any of the following:

- 28 (1) Authentication of a bond or note by a trustee or other authenticating
29 agent.
30 (2) Issuance of a bond or note as a certificated obligation, an
31 uncertificated obligation, or both.
32 (3) Issuance of a bond or note in coupon form, in registered form, or both.
33 (4) Registration of a coupon bond or note as to principal alone or as to
34 both principal and interest.
35 (5) The reconversion of a bond or note registered as to both principal and
36 interest into a coupon bond or note.
37 (6) The interchange of registered and coupon bonds or notes.
38 (7) A system for registration in accordance with Chapter 159E of the
39 General Statutes.
40 (8) Replacement of a bond or note that has been mutilated, lost, or
41 destroyed.

42 (f) The Authority may not issue a bond or note under this Chapter, other than an
43 obligation permitted under G.S. 63A-4(a)(22), unless its issuance is approved by the
44 Local Government Commission, and it is sold by the Local Government Commission.

1 To obtain approval of a bond or note, the Authority shall file an application for approval
2 with the Local Government Commission. The application shall contain the information
3 required by the Local Government Commission.

4 In determining whether to approve a proposed bond or note issue of the Authority,
5 the Local Government Commission shall consider the following:

6 (1) For bonds or notes to finance airport projects, the criteria for its
7 approval of revenue bonds under G.S. 159-86.

8 (2) For bonds or notes to finance special user projects, the criteria used for
9 its approval of industrial bonds under G.S. 159C-8.

10 (3) The effect of the proposed financing upon any proposed or scheduled
11 sale of obligations by the State, another State agency, or a unit of local
12 government.

13 The Local Government Commission shall approve the proposed bond or note issue if it
14 determines that the proposed financing for the issue meets the criteria and will effect the
15 purposes of this Chapter.

16 When the Local Government Commission approves a bond or note issue of the
17 Authority, the Authority may submit a written request to the Local Government
18 Commission to sell the approved bonds or notes. Upon receiving a written request, the
19 Local Government Commission shall consult with the Authority on the manner in which
20 the bonds or notes will be sold and the price or prices at which the bonds or notes will
21 be sold. With the approval of the Authority, the Local Government Commission shall
22 sell the bonds or notes either at public or private sale in the manner and at the prices
23 determined to be in the best interest of the Authority and to effect the purposes of this
24 Chapter.

25 Bonds or notes may be issued under this Chapter without obtaining, except as
26 otherwise expressly provided in this Chapter, the consent of any department, division,
27 commission, board, body, bureau, or other agency of the State or without any other
28 proceedings or conditions except as specifically authorized by this Chapter or by the
29 provisions of the resolution authorizing the issuance of, or any trust agreement securing,
30 the bonds or notes.

31 (g) Each bond or note that is represented by an instrument shall contain a
32 statement signed by the Secretary of the Local Government Commission, or an assistant
33 designated by the Secretary, certifying that the issuance of the bond or note has been
34 approved under this Chapter. The signature may be a manual signature or a facsimile
35 signature, as determined by the Local Government Commission. Each bond or note that
36 is not represented by an instrument shall be evidenced by a writing relating to the
37 obligation that identifies the obligation or the issue of which it is a part, contains the
38 signed statement certifying approval of the Local Government Commission that is
39 required on an instrument, and is filed with the Local Government Commission. A
40 certification of approval by the Local Government Commission is conclusive evidence
41 that a bond or note complies with this Chapter.

42 (h) The proceeds of a bond or note shall be used solely for the purposes for
43 which the bond or note was issued and shall be disbursed in accordance with the

1 resolution authorizing the issuance of the bond or note and with any trust agreement
2 securing the bond or note.

3 (i) Prior to the preparation of definitive bonds, the Authority may issue interim
4 receipts or temporary bonds, with or without coupons, exchangeable for definitive
5 bonds when the bonds have been executed and are available for delivery.

6 (j) The Authority may secure a bond or note issued under this Chapter by a trust
7 agreement between the Authority and a corporate trustee. The corporate trustee may be
8 any trust company or bank having the powers of a trust company inside or outside the
9 State. The Authority may secure a bond or note issued under this Chapter by a deed of
10 trust. The trustee of the deed of trust may be an individual who is a resident of the
11 State. A bank or trust company that is incorporated in this State and is a depository of
12 the proceeds of obligations, revenues, or other money of an Authority may furnish
13 indemnifying bonds or pledge securities required by the Authority.

14 The pledge of any assets, income, or revenues of the Authority to the payment of the
15 principal of or the interest on any obligations of the Authority is binding from the time
16 the pledge is made, and any assets, income, or revenues of the Authority are
17 immediately subject to the lien of the pledge without any physical delivery or other act.
18 The lien created by a pledge is binding against all persons who have claims of any kind
19 against the Authority, regardless of whether they have notice of the lien.

20 (k) A resolution authorizing the issuance of a bond or note and a trust agreement
21 securing a bond or note may provide that any moneys held under the resolution or trust
22 agreement may be temporarily invested pending disbursement. Any officer with whom,
23 or any bank or trust company with which, the moneys are deposited is considered a
24 trustee of the moneys and must hold and apply the moneys for their stated purpose in
25 accordance with this Chapter and the resolution or trust agreement. The Authority may
26 invest any moneys, other than the proceeds of bonds issued to finance special user
27 projects, as allowed in G.S. 147-69.1 for investments of the State Treasurer or in this
28 subsection. The proceeds of bonds issued to finance special user projects may be
29 invested as provided in the security document for the bonds.

30 In connection with or incidental to the acquisition or carrying of any investment
31 relating to bonds, program of investment relating to bonds, or carrying of bonds, the
32 Authority may, with the approval of the Local Government Commission, enter into a
33 contract to place the investment or obligation of the Authority, as represented by the
34 bonds, investment, or program of investment and the contract or contracts, in whole or
35 in part, on an interest rate, currency, cash-flow, or other basis, including the following:

36 (1) Interest rate swap agreements, currency swap agreements, insurance
37 agreements, forward payment conversion agreements, and futures.

38 (2) Contracts providing for payments based on levels of, or changes in,
39 interest rates, currency exchange rates, or stock or other indices.

40 (3) Contracts to exchange cash flows or a series of payments.

41 (4) Contracts to hedge payment, currency, rate, spread, or similar
42 exposure, including interest rate floors or caps, options, puts, and calls.

43 The Authority may enter a contract of this type in connection with, or incidental to,
44 entering into or maintaining any agreement that secures bonds. A contract shall contain

1 the payment, security, term, default, remedy, and other terms and conditions the Board
2 considers appropriate. The Authority may enter a contract of this type with any person
3 after giving due consideration, where applicable, of the person's credit-worthiness as
4 determined by a rating by a nationally recognized rating agency or any other criteria the
5 Board considers appropriate. In connection with, or incidental to, the issuance or
6 carrying of bonds, or the entering of any contract described in this subsection, the
7 Authority may enter into credit enhancement or liquidity agreements, with payment,
8 interest rate, termination date, currency, security, default, remedy, and other terms and
9 conditions as the Authority determines. Proceeds of bonds and any moneys set aside
10 and pledged to secure payment of bonds or any of the contracts entered into under this
11 subsection may be pledged to and used to service any of the contracts entered into under
12 this section.

13 (l) Bonds and notes and their transfer, including any profit made on the their
14 sale, are exempt from all State, county, and municipal taxation or assessment, direct or
15 indirect, general or special, whether imposed for the purpose of general revenue or
16 otherwise, excluding inheritance and gift taxes. The interest on bonds and notes is not
17 subject to taxation as income, and the bonds and notes are not subject to taxation when
18 constituting a part of the surplus of any bank, trust company, or other corporation.

19 (m) Bonds or notes issued under this Chapter shall not constitute a debt secured
20 by a pledge of the faith and credit of the State or a political subdivision of the State and
21 shall be payable solely from the revenues, income, or assets of the Authority that are
22 pledged for their payment. The face of each bond or note issued shall contain a
23 statement that the Authority is obligated to pay the bond or note or the interest on the
24 bond or note only from the revenues, income, or assets pledged in payment of the bond
25 or note and that neither the faith and credit nor the taxing power of the State or any
26 political subdivision of the State is pledged in payment of the principal of or the interest
27 on the bond or note. This subsection does not apply to bonds or notes for which a
28 county has pledged its taxing power under G.S. 63A-15.

29 (n) The State pledges to the holder of a bond or note issued under this Chapter
30 that, as long as the bond or note is outstanding and unpaid, the State will not limit or
31 alter the power the Authority had when the bond or note was issued in a way that
32 impairs the ability of the Authority to produce revenues sufficient with other available
33 funds to do all of the following:

34 (1) Maintain and operate the project for which the bond or note was
35 issued.

36 (2) Pay the principal of, interest on, and redemption premium, if any, of
37 the bond or note.

38 (3) Fulfill the terms of an agreement with the holder.

39 The State further pledges to the holder of a bond or note issued under this Chapter
40 that the State will not impair the rights and remedies of the holder concerning the bond
41 or note.

42 (o) Obligations issued under this Chapter are made securities in which all public
43 officers and public bodies of the State and its political subdivisions, and all insurance
44 companies, trust companies, banking associations, investment companies, executors,

1 administrators, trustees, and other fiduciaries may properly and legally invest funds,
2 including capital in their control or belonging to them. The obligations are made
3 securities that may properly and legally be deposited with and received by any State or
4 municipal officer or any agency or political subdivision of the State for any purpose for
5 which the deposit of bonds, notes, or obligations of the State is now or may be
6 authorized by law.

7 **"§ 63A-10. Refunding bonds or notes.**

8 (a) Issuance. – The Authority may issue refunding bonds or notes for the
9 purpose of refunding any outstanding bonds or notes issued under this Chapter,
10 including any redemption premium on the bonds or notes and any interest accrued or to
11 accrue to the date of redemption. Refunding bonds or notes shall be issued in
12 accordance with the same procedures and requirements as bonds or notes. Refunding
13 bonds or notes may be sold or exchanged for outstanding bonds and notes issued under
14 this Chapter.

15 Refunding bonds or notes may have different interest rates and maturities than the
16 bonds or notes being refunded. The proceeds of refunding bonds or notes may be
17 applied to any of the following:

- 18 (1) The payment, purchase, and retirement of the bonds or notes being
19 refunded by direct application to the payment, purchase, and
20 retirement.
- 21 (2) The payment, purchase, and retirement of the bonds or notes being
22 refunded by the deposit in trust of the proceeds.
- 23 (3) The payment of any expenses incurred in connection with the
24 refunding.
- 25 (4) For any other uses not inconsistent with the refunding.

26 (b) Proceeds. – The proceedings providing for the issuance of refunding bonds
27 or notes may limit the investments in which the proceeds of a particular refunding issue
28 may be invested. Unless prohibited by the proceedings, the proceeds of refunding
29 bonds or notes that are deposited in trust for the payment, purchase, and retirement of
30 outstanding bonds or notes may be invested in any of the following:

- 31 (1) Direct obligations of the United States of America.
- 32 (2) Obligations whose principal and interest are guaranteed by the United
33 States of America.
- 34 (3) Evidences of ownership of a proportionate interest in an obligation that
35 is described in subdivisions (1) or (2) of this subsection and is held in a
36 custodial capacity by a bank or trust company organized under the
37 laws of the United States of America or a state.
- 38 (4) Obligations of the State or a unit of local government of the State
39 when payment of the principal of and interest on the obligations has
40 been provided for by depositing with a trustee or other escrow agent
41 obligations that meet all of the following:
 - 42 a. Are described in subdivisions (1), (2), or (3) of this subsection.
 - 43 b. When due and payable, will provide enough money when added
44 to any other money held in trust for this purpose to pay the

- 1 principal of, premium, if any, and interest on the State or local
2 obligations.
- 3 c. Are rated in the highest category by Standard & Poor's
4 Corporation and Moody's Investors Service, Inc.
- 5 (5) Obligations of the State or a unit of local government when payment
6 of the principal and interest on the obligations is insured by a bond
7 insurance company rated in the highest category by Standard & Poor's
8 Corporation and Moody's Investors Service, Inc.
- 9 (6) Full faith and credit obligations of the State or a unit of local
10 government of the State that are rated in the highest category by
11 Standard & Poor's Corporation and Moody's Investors Service, Inc.
- 12 (7) Any obligations or investments in which the State Treasurer is then
13 authorized to invest funds of the State.
- 14 (c) Scope. – This section does not limit any of the following:
- 15 (1) The period for which the proceeds of refunding bonds or notes may be
16 held in trust to retire the bonds or notes that are being refunded and
17 have not matured, are not redeemable or, if redeemable, have not been
18 called for redemption.
- 19 (2) The power to issue bonds or notes for the combined purpose of
20 refunding outstanding bonds or notes and of providing funds for any
21 other corporate purpose.

22 **"§ 63A-11. Special user project bonds or notes.**

23 (a) The Authority may, subject to the provisions of this section, G.S. 63A-9, and,
24 if applicable, G.S. 63A-10, issue, at one time or from time to time, bonds and notes to
25 finance or refinance special user projects. Bonds and notes to finance or refinance
26 special user projects may be sold irrespective of the interest limitations in G.S. 24-1.1.

27 (b) Bonds or notes issued by the Authority under this section are special, limited
28 obligations of the Authority payable solely from the following:

29 (1) The Authority's revenues, income, or assets that it specifically assigns
30 or pledges for payment.

31 (2) The funds, collateral, and undertakings of a private party that are
32 assigned or pledged by that party.

33 (c) Bonds and notes issued under this section may be secured by one or more
34 agreements, including forecloseable deeds of trust and other trust instruments. An
35 agreement may pledge and assign to the trustee or the holders of its obligations the
36 assets, revenues, and income provided for the security of the bonds or notes, including
37 proceeds from the sale of any special user project or part thereof, insurance proceeds,
38 condemnation awards, and third-party agreements, and may convey or mortgage the
39 project and other property and collateral to secure a bond issue.

40 The Authority may subordinate the bonds or notes or its rights, assets, revenues, and
41 income derived from any special user project to any prior, contemporaneous, or future
42 securities or obligations or lien, mortgage, or other security interest.

43 (d) Notwithstanding any other provision of law, the Authority may agree that all
44 contracts relating to the acquisition, construction, installation, and equipping of the

1 special user project shall be solicited, negotiated, awarded, and executed by the private
2 parties for which the Authority is financing the special user project or any agents of the
3 private parties subject only to approval by the Authority as the Authority may require.
4 The Authority may, out of the proceeds of bonds or notes, make advances to or
5 reimburse the private parties or their agents for all or a portion of the costs incurred in
6 connection with the contracts.

7 (e) The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary
8 notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial
9 Code, G.S. 25-9-101 to G.S. 25-9-607 inclusive, shall apply to transactions under this
10 section, but not to transactions involving the issuance of bonds for airport projects, to
11 the same extent the provisions of Article 9 would apply were G.S. 25-9-104(e) and G.S.
12 25-9-302(6) repealed.

13 **"§ 63A-12. Public hearing requirements.**

14 To the extent federal tax law requires public hearings to be held with respect to the
15 issuance of bonds to finance projects, the hearings may be called for by the executive
16 director and held before one or more members of the Board of the Authority. The
17 hearings may be held at any place within the State pursuant to public notice given in
18 accordance with current federal tax regulations. To the extent federal tax law requires
19 approval following the hearing of the issuance of bonds to finance a project, the
20 approval shall be sought from the Governor following a report to the Governor of the
21 results of the public hearing accompanied by information relating to the purposes for the
22 proposed bond issue.

23 **"§ 63A-13. Financing agreements.**

24 Every financing agreement shall contain provisions ensuring all of the following:

- 25 (1) That the amounts payable under the financing agreement are sufficient
26 to pay, when due, the principal of, redemption premium, if any, and
27 interest on the bonds issued to pay the costs of the special user project.
- 28 (2) That the operator pays all costs incurred by the Authority in
29 connection with the financing and administration of the special user
30 project, except costs paid out of the proceeds of bonds or otherwise,
31 including, but without limitation, insurance costs, the cost of
32 administering the financing agreement and the security document, and
33 the fees and expenses of the fiscal agent or trustee, paying agents,
34 attorneys, consultants, and others.
- 35 (3) That the operator pays all the costs and expenses of operation,
36 maintenance, and upkeep of the special user project.
- 37 (4) That the operator's obligation to provide for the payment of the bonds
38 in full is not subject to cancellation, termination, or abatement until the
39 payment of the bonds or provision for their payment is made.

40 The financing agreement, if in the nature of a lease agreement, shall either provide
41 that the obligor shall have an option to purchase, or require that the obligor purchase,
42 the special user project upon the expiration or termination of the financing agreement
43 subject to the condition that payment in full of the principal of, and the interest and any
44 redemption premium on, the bonds, or provision therefor, shall have been made.

1 The financing agreement may provide the Authority with rights and remedies in the
2 event of a default by the obligor including, without limitation, any one or more of the
3 following:

- 4 (1) Acceleration of all amounts payable under the financing agreement.
- 5 (2) Reentry and repossession of the special user project.
- 6 (3) Termination of the financing agreement.
- 7 (4) Leasing or sale of foreclosure of the special user project to others.
- 8 (5) Taking whatever actions at law or in equity may appear necessary or
9 desirable to collect the amounts payable under, and to enforce
10 covenants made in, the financing agreement.

11 The Authority's interest in a special user project under a financing agreement may be
12 that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee,
13 secured party, or otherwise, but the Authority need not have any ownership or
14 possessory interest in the special user project.

15 The Authority may assign all or any of its rights and remedies under the financing
16 agreement to the trustee or the bondholders under a security document.

17 The financing agreement may contain additional provisions as in the determination
18 of the Board are necessary or convenient to effectuate the purposes of this Chapter.
19 When, as provided in G.S. 63A-9 and G.S. 63A-11, the Local Government Commission
20 approves the issuance of bonds by the Authority, the Commission shall also approve all
21 financing agreements and security documents.

22 **"§ 63A-14. Security documents.**

23 Bonds issued under the provisions of this Chapter may be secured by a security
24 document which may be a trust instrument between the Authority and a bank or trust
25 company or individual within the State, or a bank or a trust company outside the State,
26 as trustee. The security document may pledge and assign the revenues provided for the
27 security of the bonds, including proceeds from the sale of any project, or part thereof,
28 insurance proceeds and condemnation awards, and may convey or mortgage the project
29 and other property to secure a bond issue.

30 The revenues and other funds derived from the project, except for any part as may be
31 necessary to provide reserves therefor, if any, may be set aside at regular intervals as
32 may be provided in the security document in a sinking fund which may be pledged to,
33 and charged with, the payment of the principal of and the interest on the bonds as the
34 same shall become due and the redemption price or the purchase price of bonds retired
35 by call or purchase as provided. The pledge shall be valid and binding from the time
36 when the pledge is made. The revenues pledged and received by the Authority shall
37 immediately be subject to the lien of the pledge without any physical delivery or further
38 act, and the lien of any pledge shall be valid and binding as against all parties having
39 claims of any kind in tort, contract or otherwise against the Authority, irrespective of
40 whether the parties have notice. The use and disposition of money to the credit of the
41 sinking fund shall be subject to the provisions of the security document. The security
42 document may contain provisions for protecting and enforcing the rights and remedies
43 of the bondholders as may be reasonable and proper and not in violation of law,
44 including, without limitation, any one or more of the following:

- 1 (1) Acceleration of all amounts payable under the security document.
- 2 (2) Appointment of a receiver to manage the project and any other
3 property mortgaged or assigned as security for the bonds.
- 4 (3) Foreclosure and sale of the project and any other property mortgaged
5 or assigned as security for the bonds.
- 6 (4) Rights to bring and maintain such other actions at law or in equity as
7 may appear necessary or desirable to collect the amounts payable
8 under, or to enforce the covenants made in, the security document.

9 It shall be lawful for any bank or trust company incorporated under the laws of this
10 State which may act as depository of the proceeds of bonds, revenues, or other funds
11 provided under this Chapter to furnish indemnifying bonds or to pledge securities as
12 may be required by the Authority. All expenses incurred in carrying out the provisions
13 of the security document may be treated as a part of the cost of the project in connection
14 with which bonds are issued or as an expense of administration of the project.

15 The Authority may subordinate the bonds or its rights under the security document
16 or otherwise to any prior, contemporaneous, or future securities or obligations or lien,
17 mortgage, or other security interest.

18 **"§ 63A-15. County agreements.**

19 (a) Any county in which all or part of a cargo airport complex site is located may
20 enter into an agreement with the Authority providing for payments to be made by the
21 county to the Authority. The county's obligations under the agreement shall not
22 constitute a pledge of its faith and credit, except as permitted by this section. Payments
23 made by a county to the Authority under an agreement entered into under this section
24 may be secured by a pledge of receipts of the exercise of the county's taxing power if
25 the requirements of this section are met.

26 (b) A county that enters into an agreement with the Authority under subsection
27 (a) of this section may covenant with the Authority to pay amounts due under the
28 agreement by doing one of the following:

- 29 (1) Levying for the life of the agreement an annual property tax that does
30 not exceed the rate stated in the question submitted to the voters and is
31 to be based on the operating supplement requirement.
- 32 (2) Levying for the life of the agreement an annual property tax that does
33 not exceed the rate required to pay the principal of and the interest on
34 the aggregate principal amount of revenue bonds stated in the question
35 submitted to the voters and is to be based on the debt service reserve
36 supplement requirement.

37 (c) When a county enters an agreement and a covenant under this section, the
38 Authority shall determine by not later than June 1 of each fiscal year the amount
39 required to be raised by taxation by the county in the next fiscal year. The county is
40 obligated to levy a tax to the extent that an operating supplement requirement or a debt
41 service reserve supplement requirement is expected to occur during the fiscal year in
42 which the tax is to be levied, but in no event is the county obligated to levy a tax in
43 excess of the rate approved by the voters. When a tax is to be levied, the county shall
44 include in its budget ordinance an appropriation equal to the estimated yield of the tax

1 levy, and shall pay the appropriation to the Authority or transfer moneys to the proper
2 fund in equal monthly installments unless the county and the Authority agree on another
3 mutually satisfactory schedule of payments.

4 (d) An agreement or a covenant made by a county under this section shall be
5 effected by the provisions of the agreement. A covenant made by a county under
6 subsection (b) of this section becomes effective only if approved by the affirmative vote
7 of a majority of those who vote in a referendum held on the question in the county. The
8 referendum shall be called and held as provided in G.S. 159-61, except that:

9 (1) The ballot proposition shall be in substantially one of the following
10 forms:

11 Operating Supplement Requirement:

12 'Shall the agreement binding the county to levy annually a tax on
13 property not in excess of cents on the one hundred dollars
14 (\$100.00) value of property subject to taxation for the purpose of
15 supplementing the revenues of the Authority in instances where the
16 gross revenues of an airport project are estimated to be less than the
17 estimated total costs of the (i) current operating expenses of the
18 project, (ii) amount required to maintain the debt service reserve by
19 repaying any withdrawals in respect of all outstanding bonds issued in
20 connection with the project and (iii) debt service on all outstanding
21 bonds issued in connection with the project, all as defined in such
22 agreement, the proceeds of such tax to be used for the payment of the
23 current operating expenses of the project so long as any revenue bonds
24 issued remain outstanding and unpaid be approved?

25 Yes

26 No'

27 Debt Service Reserve Supplement Requirement:

28 'Shall the agreement binding the county to levy annually, without
29 limitation as to rate or amount, a tax on property subject to taxation for
30 the purpose of supplementing the revenues of the Authority for
31 maintaining the debt service reserve required by said agreement in
32 connection with the issuance of not in excess of \$..... revenue
33 bonds of the Authority to finance an airport project so long as any of
34 such revenue bonds remain outstanding and unpaid, be approved?

35 Yes

36 No'

37 and

38 (2) The published statement of result shall have the following statement
39 appended:

40 'Any action or proceeding challenging the regularity or validity of
41 this supplemental tax referendum must be begun within 30 days after
42 the date of publication.

43
44 (title of governing board.)'

1 (e) Any action or proceeding in any court to set aside a supplemental tax
2 referendum held under this section, or to obtain any other relief upon the ground that the
3 referendum is invalid or was irregularly conducted, must be begun within 30 days after
4 the publication of the statement of the result of the referendum. After the expiration of
5 this period of limitation, no right of action or defense based upon the invalidity of or
6 any irregularity in the referendum shall be asserted, nor shall the validity of the
7 referendum be open to question in any court upon any ground whatever, except in an
8 action or proceeding begun within the period of limitation prescribed in this subsection.

9 (f) An order or agreement submitted to and approved by the voters under this
10 section may be repealed at any time before bonds are issued pursuant thereto.

11 (g) The following definitions apply in this section:

12 (1) A 'debt service reserve supplement requirement' occurs when there
13 have been withdrawn from the debt service reserve any moneys for the
14 purpose of paying debt service on the bonds in respect of which the
15 supplemental tax has been authorized by the voters; provided,
16 however, that the amount of the debt service reserve supplement
17 requirement shall not exceed the amount so withdrawn.

18 (2) An 'operating supplement requirement' occurs when, as set forth in the
19 budget prepared by the Authority, the estimated cost in the next
20 succeeding fiscal year of the (i) current operating expenses of the
21 relevant airport project, (ii) amount required to maintain the debt
22 service reserve by repaying any withdrawals therefrom in respect of all
23 outstanding bonds issued in connection with the relevant airport
24 project, and (iii) debt service on all outstanding bonds issued in
25 connection with the relevant airport project are in excess of the
26 pledged revenues of the project for the fiscal year as estimated by the
27 Authority, excluding taxes levied pursuant to this subsection;
28 provided, however, that the amount of the operating supplement
29 requirement shall not exceed the total amount of the current operating
30 expenses of the project.

31 (h) Any covenant or agreement of a county made under this section, and the
32 obligations assumed thereby, shall be excludable from the gross debt of the county for
33 purposes of the statement of debt mentioned in G.S. 159-55.

34 (i) No agreement or pledge of taxing power described in this section is valid
35 unless the terms of the agreement and the pledge of taxing power have each been
36 approved by the Local Government Commission. Commission approval shall be
37 evidenced by a writing that identifies the agreement and pledge and shall be on file with
38 the Local Government Commission. The writing shall be conclusive evidence that the
39 requirements of this section have been met.

40 **"§ 63A-16. Remedies.**

41 Any owner of bonds or notes issued under the provisions of this Chapter or any
42 coupons appertaining thereto, and the trustee under any trust agreement securing or
43 resolution authorizing the issuance of such bonds or notes, except to the extent the
44 rights given may be restricted by the trust agreement or resolution, may either at law or

1 in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and
2 all rights under the laws of the State or granted hereunder or under the trust agreement
3 or resolution, or under any other contract executed by the Authority pursuant to this
4 Chapter; and may enforce and compel the performance of all duties required by this
5 Chapter or by the trust agreement or resolution by the Authority or by any officer of the
6 Authority.

7 **"§ 63A-17. Status of bonds and notes under Uniform Commercial Code.**

8 All bonds and notes and interest coupons, if any, issued under this Chapter are made
9 investment securities within the meaning of and for all the purposes of Article 8 of the
10 Uniform Commercial Code, as enacted in Chapter 25 of the General Statutes.

11 **"§ 63A-18. Zoning power of Authority.**

12 (a) The Authority has exclusive zoning jurisdiction within a cargo airport
13 complex site. The Authority has zoning jurisdiction within four miles of the boundaries
14 of a cargo airport complex site. The Authority has zoning jurisdiction sufficient to
15 restrict the height of any structure to be erected, and the height to which any tree may
16 grow, within six miles of the boundaries of a cargo airport complex site.

17 (b) No State agency and, in accordance with G.S. 63-31, no political subdivision
18 may adopt, without obtaining the approval of the Authority, either of the following if it
19 conflicts with a zoning provision or land use restriction adopted by the Authority:

20 (1) An airport zoning provision or other land use regulation that affects
21 real property within four miles of any cargo airport complex site.

22 (2) An airport zoning provision or other land use regulation that affects the
23 height of any structure or tree within six miles of a cargo airport
24 complex site.

25 A zoning provision or land use restriction adopted in violation of this subsection is not
26 effective.

27 **"§ 63A-19. Goals for participation by minorities, women, and the disabled.**

28 (a) The Authority shall endeavor to achieve the goals established in this section
29 for participation by minority business enterprises, women's business enterprises, and
30 disabled business enterprises in the total value of contracts awarded by the Authority in
31 each of the following categories:

32 (1) Contracts for capital construction or repair projects.

33 (2) Contracts for goods.

34 (3) Contracts for professional and other services.

35 (b) The goals for the Authority are as follows:

36 (1) Ten percent (10%) participation by minority business enterprises.

37 (2) Five percent (5%) participation by women's business enterprises.

38 (3) Two percent (2%) participation by disabled business enterprises.

39 In determining participation in contract awards, a contract shall be counted as
40 participation by a minority business enterprise without regard to the gender of the
41 owner, but only if the business does not qualify as a disabled business enterprise. A
42 contract shall be counted as participation by a women's business enterprise only if the
43 business does not also qualify as a disabled business enterprise. A contract shall be
44 counted as participation by a disabled business enterprise without regard to the race or

1 gender of the owner. The goals in this section, instead of any goals in Article 8 of
2 Chapter 143 of the General Statutes, apply to the Authority.

3 (c) The following definitions apply in this section:

4 (1) Disabled business enterprise. – A legal entity, other than a joint
5 venture, that is organized to engage in commercial transactions and is
6 at least fifty-one percent (51%) owned and controlled by one or more
7 disabled persons.

8 (2) Disabled person. – A handicapped person as defined in G.S. 168A-3.

9 (3) Minority business enterprise. – A legal entity, other than a joint
10 venture, that is organized to engage in commercial transactions and is
11 at least fifty-one percent (51%) owned and controlled by one or more
12 minority persons.

13 (4) Minority person. – A member of one of the following groups: African-
14 Americans, Hispanic-Americans, American Indians, or Asian-
15 Americans.

16 (5) Women's business enterprise means a legal entity, other than a joint
17 venture, that is organized to engage in commercial transactions and is
18 at least fifty-one percent owned and controlled by one or more women.

19 **"§ 63A-20. Officers not liable.**

20 No member or officer of the Authority shall be subject to any personal liability or
21 accountability by reason of his execution of any bonds or notes or the issuance of any
22 bonds or notes.

23 **"§ 63A-21. Conflicts of interest.**

24 If any member, officer, or employee of the Authority shall be interested either
25 directly or indirectly, or shall be an officer or employee of or have an ownership interest
26 in any firm or corporation, not including units of local government, interested directly
27 or indirectly, in any contract with the Authority, the interest shall be disclosed to the
28 Board and shall be set forth in the minutes of the Board. The member, officer, or
29 employee having an interest shall not participate on behalf of the Authority in the
30 authorization of any contract. Other provisions of law notwithstanding, failure to take
31 any or all actions necessary to carry out the purposes of this section may not affect the
32 validity of any bonds or notes issued under this Chapter.

33 **"§ 63A-22. Cooperation by other State agencies.**

34 All State officers and agencies shall render the services to the Authority within their
35 respective functions as may be requested by the Authority.

36 **"§ 63A-23. Annual and quarterly reports.**

37 The Authority shall, promptly following the close of each fiscal year, submit an
38 annual report of its activities for the preceding year to the Governor, the General
39 Assembly, and the Local Government Commission. Each report shall be accompanied
40 by an audit of its books and accounts. The costs of all audits, whether conducted by the
41 State Auditor's staff or contracted with a private auditing firm, shall be paid from funds
42 of the Authority.

43 The Authority shall submit quarterly reports to the Joint Legislative Commission on
44 Governmental Operations. The reports shall summarize the Authority's activities during

1 the quarter and contain any information about the Authority's activities that is requested
2 by the Commission.

3 **"§ 63A-24. General laws apply to Authority; exceptions.**

4 Except as provided in this section, the general laws that apply to State agencies
5 apply to the Authority. The following general laws, to the extent provided below, do
6 not apply to the Authority:

7 (1) Article 3 of Chapter 143 of the General Statutes does not apply to
8 contracts for services listed in 49 U.S.C. § 2210(a)(16) or contracts for
9 special user projects. That Article also does not apply to other
10 contracts for projects, but, with respect to these other contracts, the
11 powers and duties established in that Article shall be exercised by the
12 Authority and the Secretary of Administration, and other State officers,
13 employees, or agencies shall have no duties or responsibilities
14 concerning the contracts.

15 (2) Article 8 of Chapter 143 of the General Statutes does not apply to
16 public building contracts of the Authority, but, with respect to these
17 contracts, the powers and duties established in that Article shall be
18 exercised by the Authority and the Secretary of Administration, and
19 other State officers, employees, or agencies shall have no duties or
20 responsibilities concerning the contracts.

21 (3) Except for G.S. 146-29.1, 146-79, and 146-80, Chapter 146 of the
22 General Statutes does not apply to the Authority.

23 **"§ 63A-25. Dissolution.**

24 Whenever the Board shall by resolution determine that the purposes for which the
25 Authority was formed have been substantially fulfilled and that all bonds issued and all
26 other obligations incurred by the Authority have been fully paid or satisfied, the Board
27 may declare the Authority to be dissolved. On the effective date of the resolution, the
28 title to all funds and other property owned by the Authority at the time of the dissolution
29 shall vest in the State and possession of the funds and other property shall be delivered
30 to the State."

31 Sec. 1.1. If the General Assembly does not appoint members to the Board of
32 Directors of the North Carolina Air Cargo Airport Authority by the end of the 1991
33 Regular Session of the 1991 General Assembly, as authorized by G.S. 63A-3 of this act,
34 the positions are considered vacant and shall be filled in accordance with G.S. 120-122.
35 The Board of Directors of the Authority may not take any action until the six positions
36 designated for appointment by the General Assembly under G.S. 63A-3, as enacted by
37 this act, are filled.

38 Sec. 2. Interpretation of act. (a) This act shall not be deemed to exclude
39 additional or alternative methods for executing the provisions of this act, shall be
40 regarded as supplemental to powers conferred by other laws, and shall not be regarded
41 as in derogation of any powers now existing.

42 (b) This act, being necessary for the health and welfare of the people of this
43 State, shall be liberally construed to effect its purposes.

1 (c) Insofar as the provisions of this act are inconsistent with the provisions of
2 any general laws, the provisions of this act shall be controlling.

3 (d) Insofar as the provisions of this act are inconsistent with the provisions of
4 any local, special, or private laws, the provisions of those laws are repealed to the extent
5 of the conflict.

6 (e) If any provisions of this act or its application are held invalid, the
7 invalidity does not affect other provisions or applications of this act that can be given
8 effect without the invalid provisions or application, and to this end the provisions of this
9 act are severable.

10 (f) References in this act to specific acts, sections, or Chapters of the General
11 Statutes are intended to be references to such acts, sections, or Chapters as they may be
12 amended from time to time by the General Assembly.

13 Sec. 2.1. The North Carolina Air Cargo Airport Authority shall reimburse the
14 Highway Fund for amounts appropriated from that Fund to the Authority. The
15 Authority shall make this reimbursement from revenue from fees and other charges
16 imposed by the Authority in connection with a cargo airport complex established by the
17 Authority. The reimbursements shall be made when revenue is available to do so.

18 Sec. 3. G.S. 63-31 is amended by adding a new subsection to read:

19 "(f) A political subdivision may not adopt an airport zoning regulation in
20 violation of G.S. 63A-18."

21 Sec. 4. G.S. 126-5(c1) is amended by adding a new subdivision to read:

22 "(15) Employees of the North Carolina Air Cargo Airport Authority."

23 Sec. 5. G.S. 143-336 reads as rewritten:

24 "**§ 143-336. Definitions.**

25 As used in this Article:

26 'Agency' includes every agency, institution, board, commission, bureau, council,
27 department, division, officer, and employee of the State, but does not include counties,
28 municipal corporations, political subdivisions, county and city boards of education, and
29 other local public bodies.

30 'Community college buildings' means all buildings, utilities, and other property
31 developments located at a community college, which is defined in G.S. 115D-2(2).

32 'Department' means the Department of Administration, unless the context otherwise
33 requires.

34 'Public buildings' means all buildings owned or maintained by the State in the City
35 of Raleigh, but does not mean any building which a State agency other than the
36 Department of Administration is required by law to care for and maintain.

37 'Public buildings and grounds' means all buildings and grounds owned or
38 maintained by the State in the City of Raleigh, but does not mean any building or
39 grounds which a State agency other than the Department of Administration is required
40 by law to care for and maintain.

41 'Public grounds' means all grounds owned or maintained by the State in the City of
42 Raleigh, but does not mean any grounds which a State agency other than the
43 Department of Administration is required by law to care for and maintain.

1 'Secretary' means the Secretary of Administration, unless the context otherwise
2 requires.

3 'State buildings' mean all State buildings, utilities, and other property developments
4 except the State Legislative Building, railroads, highway structures, ~~and bridge structures.~~
5 bridge structures, and any buildings, utilities, or property owned or leased by the North
6 Carolina Air Cargo Airport Authority.

7 But under no circumstances shall this Article or any part thereof apply to the judicial
8 or to the legislative branches of the State."

9 Sec. 6. G.S. 120-123 is amended by adding a new subdivision to read:

10 "(25a) The North Carolina Air Cargo Airport Authority as established under
11 G.S. 63A-3."

12 Sec. 7. G.S. 66-58(b) is amended by adding a new subdivision to read:

13 "(17) The North Carolina Air Cargo Airport Authority or a lessee of the
14 Authority."

15 Sec. 8. G.S. 159-7(b)(4) is amended to read:

16 "(4) 'Debt service' is the sum of money required to pay installments of
17 principal and interest on bonds, notes, and other evidences of debt
18 accruing within a fiscal year, to maintain sinking funds, and to pay
19 installments on debt instruments issued pursuant to Chapter 159G of
20 the General Statutes accruing within a fiscal year and to pay amounts
21 due under agreements described in G.S. 63A-15 accruing within a
22 fiscal year."

23 Sec. 9. G.S. 147-69.2(b) is amended by adding the following subdivision to
24 read:

25 "(11) With respect to assets of the Escheat Fund, obligations of the North
26 Carolina Air Cargo Airport Authority authorized by G.S. 63A-
27 4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that
28 have a final maturity not later than September 1, 1999. The obligations
29 shall bear interest at the rate set by the State Treasurer. No
30 commitment to purchase obligations may be made pursuant to this
31 subdivision after September 1, 1993, and no obligations may be
32 purchased after September 1, 1994. In the event of a loss to the
33 Escheat Fund by reason of an investment made pursuant to this
34 subdivision, it is the intention of the General Assembly to hold the
35 Escheat Fund harmless from any such loss by appropriating to such
36 Escheat Fund funds equivalent to such loss."

37 Sec. 10. G.S. 150B-1(d), as amended by Chapters 418 and 477 of the 1991
38 Session Laws, is further amended by adding a new subdivision to read:

39 "(5) The North Carolina Air Cargo Airport Authority with respect to the
40 acquisition, construction, operation, or use, including fees or charges,
41 of any portion of a cargo airport complex."

42 Sec. 11. G.S. 150B-1(e), as amended by Chapter 418 of the 1991 Session
43 Laws, is further amended by adding a new subdivision to read:

1 "(10) The North Carolina Air Cargo Airport Authority with respect to
2 to the acquisition, construction, operation, or use, including fees
3 or charges, of any portion of a cargo airport complex."
4 Sec. 12. This act is effective upon ratification.