

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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**HOUSE BILL 1207
Committee Substitute Favorable 6/4/07**

Short Title: Greater Asheville Airport Authority Act.

(Local)

Sponsors:

Referred to:

March 29, 2007

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE GREATER ASHEVILLE AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

SECTION 4.(b) The Authority shall consist of seven members of whom three shall be resident voters of the City of Asheville appointed by the Asheville City Council, three shall be resident voters of the County of Buncombe appointed by the

1 Board of Commissioners of Buncombe County, and one member from Henderson
2 County at large appointed by the Board of Commissioners of Henderson County. A
3 person who, at the time of an appointment, is transacting business with the Authority or
4 who is reasonably expected to transact business with the Authority, either personally or
5 as an employee of, agent for, or consultant to any other person or legal entity, or is a
6 tenant of a lessee of the Authority may not be appointed as a member of the Authority.

7 **SECTION 4.(c)** Of the initial members appointed by the Asheville City
8 Council, one member shall serve a term of one year, one member shall serve a term of
9 two years, and one member shall serve a term of three years. Of the initial members
10 appointed by the Board of Commissioners of Buncombe County, one member shall
11 serve a term of one year, one member shall serve a term of two years, and one member
12 shall serve a term of three years. The initial member appointed by the Board of
13 Commissioners of Henderson County shall serve a term of three years. All successive
14 members of the Authority shall serve three-year terms. Members of the Authority may
15 serve up to a total of two successive three-year terms.

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

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

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

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

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

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

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

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

1 **SECTION 5.(d)** A majority of the voting members shall control the
2 decisions of the Authority, and each voting member of the Authority, including the
3 chairman, shall have one vote. A majority of the duly appointed and qualified members
4 of the Authority shall constitute a quorum.

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

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

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

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

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

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

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

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

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

33 **SECTION 6.(f)** To sue or be sued in the name of the Authority, to acquire
34 by purchase and to hold lands for the purpose of constructing, maintaining, or operating
35 any airport within the limits of said counties, and to make such contracts and to hold
36 such personal property as may be necessary for the exercise of the powers of the
37 Authority. The Authority may acquire by purchase, or otherwise, any existing lease,
38 leasehold right, or other interest in any existing airport facility located in the counties of
39 Buncombe and Henderson.

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

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

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

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

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

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

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

22 **SECTION 6.(n)** To purchase any of its outstanding bonds or notes.

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

31 **SECTION 6.(p)** To possess the same exemptions in respect to payment of
32 taxes and license fees as provided for municipal corporations by the laws of the State of
33 North Carolina.

34 **SECTION 6.(q)** To accept grants of money or materials or property of any
35 kind for any airport facilities from any federal or State agency, political subdivision, or
36 other public body or from any private agency or individual, upon such terms and
37 conditions as may be imposed, and to enter into contracts and grants agreements with
38 the Federal Aviation Administration, or any successor or successors thereof, and with
39 the State of North Carolina or any of its agencies, in the capacity of sponsor or
40 cosponsor of any airport development project involving the acquisition, construction,
41 reconstruction, improvement, extension, enlargement, or equipment of any airport
42 facilities owned or operated by the Authority, pursuant to any federal or State law
43 providing for aid to airports.

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

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

11 **SECTION 6.(t)** To exercise all of the powers conferred by Chapter 63 of the
12 General Statutes.

13 **SECTION 7.(a)** The Authority may acquire property as follows:

14 **SECTION 7.(b)** The Authority is hereby authorized and empowered to
15 acquire from the counties of Buncombe and Henderson and the City of Asheville, by
16 agreement therewith, and such counties and cities are hereby authorized and empowered
17 to grant and convey, either by gift or for such consideration as it may be deemed wise,
18 any real or personal property which it now owns or may hereafter be acquired, and
19 which may be necessary for the construction, operation, and maintenance of any airport
20 or facilities of same located in the counties of Buncombe or Henderson.

21 **SECTION 7.(c)** Private property needed by the Authority for any airport,
22 landing field, or facilities of same may be acquired by gift or devise, or may be acquired
23 by private purchase or by the exercise of the power of eminent domain by the Authority,
24 pursuant to the provisions of Chapter 40 of the General Statutes, as amended. Aviation
25 easements needed by the Authority for any airport, landing field, or facilities of same
26 may likewise be acquired by gift, devise, or private purchase or by the exercise of the
27 power of eminent domain by said Authority, pursuant to the provisions of Chapter 40 of
28 the General Statutes.

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

32 **SECTION 8.** The Authority shall make annual reports to the Buncombe
33 County Board of Commissioners, the City of Asheville City Council, and the Henderson
34 County Board of Commissioners setting forth the operations and transactions conducted
35 by it pursuant to this act. The Authority shall be regarded as the corporate
36 instrumentality and agent for the counties of Buncombe and Henderson and the City of
37 Asheville for the purpose of developing aviation facilities in the counties of Buncombe
38 and Henderson, but it shall have no power to pledge the credit of the counties of
39 Buncombe or Henderson, or the City of Asheville, or any subdivision thereof, or to
40 impose any obligation upon the counties of Buncombe or Henderson, or the City of
41 Asheville, or any subdivision thereof, except and when such power is expressly granted
42 by statute.

43 **SECTION 9.** All rights and powers given to the counties or municipalities
44 by the statutes of North Carolina, which may now be in effect, or may be enacted in the

1 future, relating to the development, regulation, and control of municipal airports and the
2 regulations of aircraft are hereby vested in the said Authority.

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

7 **SECTION 11.** The powers of the Authority created by this act shall be
8 construed liberally in favor of the Authority. No listing of powers included in this act is
9 intended to be exclusive or restrictive, and the specific mention of, or failure to mention,
10 particular powers in this act shall not be construed as limiting in any way the general
11 powers of the Authority as stated in Section 6 of this act. It is the intent of this act to
12 grant the Authority full power and right to exercise all authority necessary for the
13 effective operation and conduct of the Authority. It is further intended that the Authority
14 should have all implied powers necessary or incidental to carrying out the expressed
15 powers and the expressed purposes for which the Authority is created. The fact that this
16 act specifically states that the Authority possesses a certain power does not mean that
17 the Authority must exercise such power unless this act specifically so requires.

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

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