

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 552
Committee Substitute Favorable 4/21/11

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

Sponsors:

Referred to:

March 31, 2011

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

4 The General Assembly of North Carolina enacts:

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

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

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

- 13 (1) "Airport facilities" means airport facilities of all kinds, including, but not
14 limited to, landing fields, hangars, fixed base operations, shops, restaurants
15 and catering facilities, terminals, buildings, and parking facilities and all
16 other facilities necessary, beneficial, and/or helpful for the landing, taking
17 off, operating, servicing, repairing, and parking of aircraft, the loading,
18 unloading, and handling of cargo and mail, express and freight, and the
19 accommodation, convenience, and comfort of crews and passengers,
20 together with related transportation facilities, all necessary, beneficial,
21 and/or helpful appurtenances, machinery, and equipment, and all lands,
22 properties, rights, easements, and franchises relating thereto and considered
23 necessary, beneficial, and/or helpful by the Authority in connection
24 therewith.
- 25 (2) "ARAA member" means a member of the Asheville Regional Airport
26 Authority in existence when this act becomes law.
- 27 (3) "Authority" means the Greater Asheville Regional Airport Authority created
28 by this act or, if such Authority is abolished, the authority, board, body,
29 commission, or other entity succeeding to the principal functions thereof.
- 30 (4) "Member" means an individual who is appointed to the Authority as
31 provided by this act.

32 **SECTION 4.(a)** The Authority shall consist of seven members, (i) one of whom
33 must have experience in aviation, (ii) one of whom must have experience in travel and tourism,
34 and (iii) one of whom must have experience in one or more of marketing, business
35 development, or economic development. In addition, the appointing authorities are encouraged
36 to appoint members who, when practical, have experience in logistics, construction and/or



1 facilities management, law, accounting and/or finance. The seven members shall be appointed
2 as follows:

- 3 (1) Two shall be registered voters of the City of Asheville appointed by the
4 Asheville City Council.
- 5 (2) Two shall be registered voters of the County of Buncombe appointed by the
6 Board of Commissioners of Buncombe County.
- 7 (3) Two shall be registered voters of the County of Henderson appointed by the
8 Board of Commissioners of Henderson County.
- 9 (4) One shall be appointed by majority vote of the other six members.

10 **SECTION 4.(a1)** No person holding any elected public office may be a member of
11 the Authority, provided that if an ARAA member also holds an elective public office when this
12 act becomes effective, that member may serve as a member of the Authority until the
13 completion of the term of elective office and until a successor is appointed and qualified.

14 **SECTION 4.(b)** No person who, at the time of appointment, is transacting business
15 with the Authority or who is reasonably expected to transact business with the Authority, or is
16 an employee, agent, or consultant of an entity transacting or expecting to transact business with
17 the Authority, may be appointed as a member of the Authority, provided this sentence does not
18 apply to a person who is an employee of a public utility which is the sole available supplier for
19 the Authority. No person who, at the time of appointment, is an employee or agent of or
20 consultant to the Authority may be appointed as a member of the Authority.

21 **SECTION 4.(c)** Members of the Authority shall serve four-year terms and may
22 serve up to a total of two successive four-year terms. A member may not be reappointed to the
23 Authority except after a lapse of four years following the most recent term served. In the event
24 a member is appointed to fill an unexpired term, and at least two years of the unexpired term
25 remain to be served, such appointment shall be counted in applying the two-term limit,
26 otherwise it shall not be counted. Notwithstanding the foregoing, those individuals serving as
27 ARAA members as of the effective date of this act may continue to serve as members of the
28 Authority until the completion of their respective then current terms and until their successors
29 are appointed and qualified. In the event an ARAA member resigns or is removed, the
30 appointing authority under the agreement between the County of Buncombe and the City of
31 Asheville shall forthwith appoint a replacement ARAA member to complete the unexpired
32 term. Thereafter, and with respect to the four ARAA members whose terms expire June 30,
33 2012, the Asheville City Council, the Board of Commissioners of Buncombe County, and the
34 Board of Commissioners of Henderson County each shall appoint one member of the
35 Authority, and the other members shall appoint, by majority vote, the fourth member. With
36 respect to the three ARAA members whose terms expire June 30, 2014, the Asheville City
37 Council, the Board of Commissioners of Buncombe County, and the Board of Commissioners
38 of Henderson County each shall appoint one member of the Authority.

39 **SECTION 4.(d)** Any vacancy occurring among the membership of the Authority
40 shall be filled within 60 days after notice thereof by appointment of the appointing authority of
41 a member to serve for the remainder of the unexpired term.

42 **SECTION 4.(e)** Members of the Authority and their successors shall take and
43 subscribe to an oath of office before an officer authorized to administer oaths, which oath shall
44 be filed with the Authority.

45 **SECTION 4.(f)** Any member of the Authority may be suspended or removed from
46 office by that member's appointing authority for cause affecting that member's duties and
47 responsibilities as a member; for misfeasance, malfeasance, or nonfeasance in office; or for
48 conduct tending to undermine any decisions of the Authority, or conduct exposing the
49 Authority to liability for damages.

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

1 **SECTION 4.(h)** Each member may continue to serve until a successor has been
2 duly appointed and qualified, but not for more than 60 days.

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

5 **SECTION 5.(b)** Members of the Authority shall constitute the governing board of
6 the Authority and may, among other things and from time to time, adopt suitable bylaws, not
7 inconsistent with the provisions of this act.

8 **SECTION 5.(c)** The Authority shall appoint from its members a chair, vice-chair,
9 and such other officers as it may from time to time deem necessary, beneficial, and/or helpful
10 for the orderly conduct of its business. The term of office of the chair and vice-chair is two
11 years, and a chair and vice-chair may not serve more than two successive two-year terms.

12 **SECTION 5.(d)** Each member of the Authority, including the chair, shall have one
13 vote. A majority of the members of the Authority shall constitute a quorum, and all actions of
14 the Authority shall be determined by a majority vote of all the members, that is four votes in
15 favor.

16 **SECTION 5.(e)** The Authority shall hold meetings at least monthly at such times
17 and places as it from time to time may designate and at such other times on the call of the chair
18 or by four members of the Authority. Notice of meetings shall be provided as required by
19 Article 33C of Chapter 143 of the General Statutes. A monthly meeting of the Authority may
20 be cancelled if it is determined by the chair or four members that such meeting is not required.

21 **SECTION 5.(f)** Members may receive payment or reimbursement for travel,
22 lodging, and meal expenses incurred in transacting business on behalf of the Authority.
23 Members may also receive free parking at any airport owned, leased, subleased, or controlled
24 by the Authority, which members may use for official and nonofficial purposes during the
25 respective member's term of office.

26 **SECTION 5.(g)** The fiscal year of the Authority shall begin on July 1 and end on
27 June 30. On or before May 15 of each year, the Authority shall prepare and adopt a proposed
28 budget for the next ensuing fiscal year and deliver copies of such proposed budget to the
29 Buncombe and Henderson County Boards of Commissioners and the Asheville City Council.

30 **SECTION 5.(h)** All meetings and closed sessions of the Authority shall be
31 conducted in accordance with Article 33C of Chapter 143 of the General Statutes as it may be
32 amended or in accordance with any successor statute.

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

- 35 (1) Adopt and from time to time revise an official seal.
- 36 (2) Maintain an office or offices at such place or places as it may designate
37 within Buncombe or Henderson Counties only.
- 38 (3) Purchase, acquire, develop, establish, construct, own, control, lease, equip,
39 improve, administer, maintain, operate, and/or regulate airports and/or
40 landing fields for the use of airplanes and other aircraft and all facilities
41 incidental thereto, within the limits of Buncombe and/or Henderson
42 Counties; and for any of such purposes, purchase, acquire, own, develop,
43 hold, lease, sublease, and operate real and/or personal property.
- 44 (4) Purchase real and personal property.
- 45 (5) Sue and be sued in the name of the Authority, to acquire by purchase or
46 otherwise and to hold lands for the purpose of constructing, maintaining,
47 and/or helpful operating any airport within the limits of said counties, and to
48 make such contracts and to hold such personal property as may be necessary,
49 beneficial, and/or helpful for the exercise of the powers of the Authority.
50 The Authority may acquire by purchase or otherwise any existing lease,

- 1 sublease, leasehold right, or other interest in any existing airport facility
2 located in the Counties of Buncombe and/or Henderson.
- 3 (6) Charge and collect fees, royalties, rents, and/or other charges, including fuel
4 flowage fees, for the use and/or occupancy of property owned, leased,
5 subleased, or otherwise controlled or operated by the Authority or for
6 services rendered in the operation thereof.
- 7 (7) Make all reasonable rules, regulations, and policies as it may from time to
8 time deem to be necessary, beneficial, or helpful for the proper maintenance,
9 use, occupancy, operation, and/or control of any airport or airport facility
10 owned, leased, subleased, or controlled by the Authority; provide and
11 enforce civil and criminal penalties for the violation of such rules,
12 regulations, and/or policies; provided that such rules, regulations, policies,
13 and penalties are not in conflict with any applicable law, rule, or regulation
14 of the State of North Carolina, the United States, or any agency, department,
15 or subdivision of either of them, including the rules and regulations of the
16 Federal Aviation Administration.
- 17 (8) Sell, exchange, lease, sublease, or otherwise dispose of, any property, real or
18 personal, belonging to the Authority, or grant easements over, through,
19 under, or across any real property belonging to the Authority, or donate to
20 another governmental entity within this State or to the United States any
21 surplus, obsolete, or unused personal property; provided that Article 12 of
22 Chapter 160A of the General Statutes does not apply and is not applicable to
23 any such sale, exchange, lease, sublease, grant, donation, or other
24 disposition.
- 25 (9) Purchase such insurance and insurance coverages as the Authority may from
26 time to time deem to be necessary, beneficial, or helpful.
- 27 (10) Maintain and/or operate any airport or landing field jointly with any county
28 or counties adjoining either the County of Buncombe or the County of
29 Henderson or both of them and/or with other aviation/airport authority or
30 authorities operating under authorization from one or more adjoining
31 counties and/or any municipality located therein.
- 32 (11) Deposit, invest, and/or reinvest any of its funds as provided by the Local
33 Government Finance Act for the deposit or investment of unit funds.
- 34 (12) Issue revenue bonds and/or refunding bonds pursuant to the Local
35 Government Revenue Bond Act.
- 36 (13) Purchase any of its outstanding bonds or notes.
- 37 (14) Operate, own, lease, sublease, control, regulate, and/or grant to others the
38 right to operate on any airport premises restaurants, snack bars and vending
39 machines, food and beverage dispensing outlets, rental car services, catering
40 services, novelty shops, insurance sales, advertising media, merchandising
41 outlets, motels, hotels, barber shops, automobile parking and storage
42 facilities, automobile service stations, garage service facilities, motion
43 picture shows, personal service establishments, and/or all other types of
44 facilities as may be directly or indirectly related to the maintenance and/or
45 furnishing of the public commercial and/or general aviation airport facilities.
- 46 (15) Accept grants of money and/or materials or property of any kind for any
47 existing or future airport facilities from the State of North Carolina, the
48 United States, or any agency, department, or subdivision of either of them,
49 including the Federal Aviation Administration, or from any private agency,
50 entity, or individual, upon such terms and conditions as may be imposed,
51 and enter into contracts and grants agreements with the Federal Aviation

1 Administration, or any successor or successors thereof, and/or with the State
2 of North Carolina or any of its agencies, departments, or subdivisions in the
3 capacity of sponsor or cosponsor of any airport development project
4 involving the acquisition, construction, development, reconstruction,
5 improvement, extension, enlargement, or equipment of any existing or future
6 airport facilities.

7 (16) Employ and fix the compensation of an airport director, who shall serve at
8 the pleasure of the Authority and who shall manage the affairs of the
9 Authority under the supervision of the Authority.

10 (17) Employ, or provide for the employment of, such employees, including law
11 enforcement officers, as the Authority may from time to time deem to be
12 necessary, beneficial, or helpful. All such employees shall be employees at
13 will, and no such employee shall have a defined or definite term of
14 employment or an expectation of continued employment or an expectation of
15 continued indefinite employment.

16 (18) Employ, hire, retain, or contract with, such accountants, auditors, agents,
17 engineers, attorneys, and other persons and entities whose services may from
18 time to time be deemed by the Authority to be necessary, beneficial, or
19 helpful.

20 (19) Make or cause to be made such surveys, investigations, studies, borings,
21 maps, plans, drawings, and/or estimates of cost and revenues as the
22 Authority may from time to time deem necessary, beneficial, or helpful, and
23 prepare and adopt a comprehensive plan or plans for the location,
24 construction, improvement, and development of any project.

25 (20) Undertake and/or enter into leases, subleases, agreements, easements, and
26 contracts, and/or grant concessions, with respect to alternative energy,
27 energy conservation, energy reduction, and/or renewable energy activities,
28 programs, projects, and/or ventures, and the administration, construction,
29 development, enlargement, equipment, improvement, maintenance,
30 management, operation, regulation, and/or repair thereof.

31 (21) Exercise all of the powers conferred by Chapter 63 of the General Statutes or
32 any successor Chapter or law. In addition, this act shall be broadly construed
33 to include any additional and supplementary powers and authority that may
34 be reasonably necessary, beneficial, helpful, incidental, or expedient to
35 carrying out or performing any express power or authority provided by this
36 act or Chapter 63 of the General Statutes; provided that no such additional or
37 supplementary power may be contrary to any applicable constitutional
38 provision, law, rule, or regulation of this State, the United States, or any
39 agency, department, or subdivision of either of them, including the Federal
40 Aviation Administration.

41 **SECTION 6.(b)** The Authority has the same exemptions with respect to payment
42 of taxes and license fees as provided for municipal corporations by the laws of the State of
43 North Carolina.

44 **SECTION 7.(a)** The Authority is hereby authorized and empowered to acquire
45 from the Counties of Buncombe and Henderson and the City of Asheville, by agreement
46 therewith, and such Counties and City may grant and convey, either by gift or for such
47 consideration as it may be deemed wise, any real and/or personal property which it now owns
48 or may hereafter acquire, and which may be necessary, beneficial, or helpful for the
49 construction, development, operation, and/or maintenance of any airport or facilities of same
50 located in the Counties of Buncombe or Henderson. If the airport ceases to operate or if the
51 Authority is dissolved, any applicable real property of the Counties of Buncombe or Henderson

1 or the City of Asheville conveyed or transferred to the Authority under this act shall revert to
2 the grantor.

3 **SECTION 7.(b)** The County of Buncombe, the County of Henderson, and the City
4 of Asheville shall transfer to the Authority within 90 days after enactment of this act all its
5 right, title, and interest to the property known as the Asheville Regional Airport, except if
6 approval of a federal agency is required, then within 90 days of that approval.

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

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

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

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

29 **SECTION 9.** All rights, powers, and authority given to the counties and/or
30 municipalities by the statutes of North Carolina, which may now be in effect, or which may be
31 enacted in the future, relating to the development, operation, maintenance, regulation, and/or
32 control of municipal or other governmental airports and the regulations of aircraft are hereby
33 vested in the Authority.

34 **SECTION 10.** The Authority is hereby expressly authorized to make and enter into
35 contracts, leases, subleases, conveyances, and other agreements with any political subdivision,
36 agency, department, or instrumentality of this State, any agency, department, or subdivision of
37 the United States, or any other legal entity or person for the purpose of carrying out the
38 provisions of this act.

39 **SECTION 11.** The powers and authority of the Authority created by this act shall
40 be construed liberally in favor of the Authority. No listing of powers and/or authority included
41 in this act is intended to be exclusive or restrictive, and the specific mention of, or failure to
42 mention, any particular power or authority in this act shall not be construed as limiting in any
43 way the general powers and authority of the Authority as stated in Section 6 of this act or
44 elsewhere in this act. It is the intent of this act to grant the Authority full power, authority, and
45 right to exercise all powers and authority necessary, beneficial, helpful, incidental, or expedient
46 for the effective operation and conduct of the Authority. It is further intended that the Authority
47 should have all implied powers and authority necessary, beneficial, helpful, incidental, or
48 expedient to carrying out the express powers and authority and the express purposes for which
49 the Authority is created. The fact that this act specifically states that the Authority possesses a
50 certain power or authority does not mean or imply that the Authority must exercise such power
51 unless this act specifically so requires.

- 1 **SECTION 12.** G.S. 66-58(a) does not apply to the Greater Asheville Regional
2 Airport Authority or a lessee or sublessee of the Greater Asheville Regional Airport Authority.
3 **SECTION 13.** If any provision of this act or its application is held invalid, the
4 invalidity does not affect other provisions or applications of this act that can be given effect
5 without the invalid provisions or application, and to this end the provisions of this act are
6 severable.
7 **SECTION 14.** This act is effective when it becomes law.