

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 1517
RATIFIED BILL

AN ACT TO ENABLE THE COUNTY OF CALDWELL, THE COUNTY OF BURKE, THE CITY OF LENOIR, AND THE CITY OF MORGANTON TO JOINTLY ESTABLISH AN AIRPORT AUTHORITY AND TO PROVIDE FOR THE JOINT MAINTENANCE AND CONTINUING OPERATION OF THE EXISTING AIRPORT NOW OPERATED BY THE MORGANTON-LENOIR AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Creation. There is created the "Foothills Regional Airport Authority" (for brevity hereinafter referred to as the "Airport Authority") which, when duly established as provided for in this act, shall be both a body politic and corporate, having all of the following enumerated powers and jurisdiction as well as any other additional powers that may be conferred upon it by the general law and by act of the General Assembly.

Section 2. Joint Airport Established. The governing bodies of the County of Caldwell, the County of Burke, the City of Morganton, and the City of Lenoir, (jointly referred to as the "governing bodies") may jointly acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate an airport or landing field for the use of airplanes and other aircraft and may use for these purposes any suitable property that is now or may at any time be jointly owned or controlled by those cities or counties or by the Airport Authority.

The Airport Authority authorized by this act shall be successor in interest to the Morganton-Lenoir Airport Authority and when it is established, the Morganton-Lenoir Airport Authority shall cease to exist. As successor in interest, the Airport Authority shall be the beneficiary of, and shall be bound by all existing contracts, agreements, licenses, permits, loans, grants, appropriations, and gifts of any kind and shall be subject to all applicable rules and regulations issued by any regulatory body having jurisdiction over aeronautical activities.

Section 3. Authority Membership and Procedures.

(a) Membership. The Airport Authority shall consist of eight members who shall be residents of either Burke or Caldwell County and who shall be appointed for staggered terms as provided in this act. Each of the governing bodies shall appoint two members, one of which shall be an elected official.

(b) Term. The term for any member shall extend for a period of two years except that for the initial appointments to the Airport Authority, each governing body shall designate one appointment as a two-year term and one appointment as a one-year term. Thereafter all terms shall be for a full two years. Members may succeed themselves in office and may serve for more than one term.

All members of the Airport Authority shall continue to hold office until their successors have been appointed and are qualified by the taking of the oath of office.

(c) Oath. Each member shall take and subscribe to an oath of office before an official authorized to administer oaths before assuming duties.

(d) Vacancies. The governing body making the initial or any subsequent appointment of a member shall also have the right to fill any vacancy created by the resignation, removal, incapacity, or death of that member. A member appointed to fill a vacancy shall serve the unexpired term and shall be eligible for reappointment.

(e) Organizational Meeting. The Airport Authority shall hold an organizational meeting immediately after being established and each year thereafter. At the organizational meeting, the membership shall elect from its number a chairman and any other officers, may establish a regular meeting time and place, appoint standing committees and organize itself for the purpose of transacting business. An administrative secretary may be appointed for the purpose of maintaining records, keeping minutes and other administrative duties, and it shall not be required that such person be a member of the Airport Authority.

(f) Meetings. The Airport Authority shall hold regular meetings for the transaction of its business at a place and at times that the Authority determines appropriate. Special meetings may be held at any time when the chairman or any two members of the Airport Authority shall request a special meeting.

(g) Notice of Meetings. Proper notice for all meetings shall be given and the Airport Authority shall comply with all applicable requirements of Article 33C of Chapter 143 of the General Statutes commonly known as the "Open Meetings Law".

(h) Records. The Airport Authority shall keep a full record of its proceedings and minutes of its meetings showing the business transacted at each meeting.

(i) Quorum. A majority of the membership of the Airport Authority, excluding vacant seats, shall constitute a quorum for the transaction of business.

(j) Voting. No member shall be excused from voting except upon matters involving the consideration of his or her own financial interest or official conduct, and in all other cases a failure to vote by a member who is physically present or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

(k) Approval. An affirmative vote equal to a majority of all the members present at which a quorum of the Airport Authority is also present and not excused from voting on a matter shall be required to take action.

(l) Bylaws. The Airport Authority may adopt suitable bylaws for its management and may establish committees and advisory boards as it deems expedient.

(m) Removal. A member may be removed from the Airport Authority by the governing body making the original appointment, but no member shall be removed except for good cause.

Section 4. Liability. Members of the Airport Authority shall not be personally liable for their acts as members of the Airport Authority, except for acts resulting from misfeasance or malfeasance.

Section 5. Powers. (a) The Airport Authority shall be and constitute a body politic and corporate and as such shall have the following powers and authority:

- (1) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports and landing fields for the use of airplanes and other aircraft and to engage in other lawful aeronautical activities.

The Airport Authority may exercise these powers alone or in conjunction with its participating governing bodies.

- (2) To purchase, improve, own, hold, lease (as lessor or lessee), mortgage, issue deeds of trust, grant security interests in, or operate real or personal property of every kind.
- (3) To engage in economic development activities including the development, division and redivision of surplus property (property that is not necessary for the operation of the airport) as an industrial and/or commercial park or the sale of such property for industrial and/or commercial uses, but shall not be sold for investment and speculative purposes.
- (4) To sue and to be sued in the name of the Airport Authority, to make contracts and to hold any personal property necessary for the exercise

- of the powers of the Airport Authority, and to acquire by purchase, lease, or otherwise any existing lease, leasehold right, or any other interest in any existing airport, specifically including the Morganton-Lenoir Airport.
- (5) To charge and collect reasonable and adequate fees and rents for the use of airport property and for services rendered in the operation of the airport.
 - (6) To make all reasonable rules and regulations deemed necessary for the proper maintenance, use, operation and control of the airport, including public safety, and provide penalties for the violation of its rules and regulations; provided, the rules and regulations and the schedule of fees are not in conflict with the laws of the State of North Carolina and any rules or regulations lawfully issued by the Federal Aviation Administration. The Airport Authority may administer and enforce any airport zoning regulations adopted by Burke County and Caldwell County.
 - (7) To issue notes and bonds pursuant to Article 5 of Chapter 159 of the General Statutes and purchase and finance the purchase of real or personal property by installment contracts and other means of indebtedness authorized by G.S. 160A-20.
 - (8) To sell, lease, and otherwise dispose of any property, real or personal, belonging to the Airport Authority, according to the procedures described in Article 12 of Chapter 160A of the General Statutes.
 - (9) To purchase any insurance that the Federal Aviation Administration or the Airport Authority shall deem necessary or expedient, and the Airport Authority shall be responsible for any and all insurance claims or liabilities.
 - (10) To deposit, invest and reinvest any of its funds as provided by the Local Government Finance Act, as it may be amended or superseded from time to time, for the deposit or reinvestment of unit funds.
 - (11) To purchase any of its outstanding bonds or notes.
 - (12) To operate, own, lease, control, regulate, or to grant to others, for a period not to exceed 20 years, the right to operate on any airport premises restaurants, snack bars, vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, hotels, motels, barbershops, automobile parking and storage facilities, automobile service establishments, and all other types of facilities as may be directly or indirectly related to aeronautical activities or to the maintenance and furnishing to the general public of a complete air terminal installation.
 - (13) To contract with persons, firms, or corporations for terms not to exceed 20 years, for the operation of airline scheduled passenger and freight flights, nonscheduled flights, and any other aeronautical activities, including a fixed-base operator, provided such activities are not inconsistent with grant agreements under which the airport property is held.
 - (14) To erect and construct buildings, hangars, shops, and other improvements and facilities and to lease those improvements and facilities for term or terms not to exceed 20 years; to borrow money for the use in making and paying for these improvements and facilities, secured by and on the credit only of the lease agreements in respect to these improvements and facilities and to pledge and assign the lease and the lease agreement as security for the authorized loans.

- (15) Notwithstanding anything in this act to the contrary, to have all the same power and authority granted to cities and counties pursuant to Chapter 63 of the General Statutes.
- (16) To acquire property by the exercise of eminent domain pursuant to Chapter 40A of the General Statutes as a local public condemnor, including specifically the provisions of G.S. 40A-42.
- (17) To have a corporate seal which may be altered at will.

Section 5.(b) The Airport Authority shall not have the power to pledge the credit of, or issue debt binding on, Caldwell County, Burke County, the City of Morganton, or the City of Lenoir, nor impose any obligations on those bodies except as may be specifically consented to by the respective governing body by the adoption of a resolution or ordinance. The governing bodies (either collectively or singularly) shall not be liable for the debt and other obligations of the Airport Authority.

Section 6. Exemption From Taxes. The Airport Authority shall possess and have the same exemptions in respect to the payment of taxes and license fees as provided for municipal corporations by the laws of the State of North Carolina. The Airport Authority is also allowed a refund of sales and use taxes as provided in G.S. 105-164.14(c).

Section 7. Real and Personal Property. The Airport Authority may acquire from any of the participating governmental bodies, and the participating governing bodies may grant and convey, either by gift or for such consideration as the governing body may deem expedient, any real or personal property which it now owns or may hereafter acquire, all without compliance with Article 12 of Chapter 160A of the General Statutes.

Section 8. Public Purpose. Any lands acquired, owned, controlled, or occupied by the Airport Authority shall be and are hereby declared to be acquired, owned, controlled, and occupied for a public purpose.

Section 9. Other Grants. The Airport Authority may apply for, contract with, accept and expend loans, grants, and other appropriations from the Federal Aviation Administration, the State of North Carolina, or any other public or private body or agency.

Section 10. Appropriations. The City of Lenoir, the City of Morganton, the County of Burke, and the County of Caldwell may appropriate funds derived from any source including ad valorem taxes to carry out the provisions of this act in any proportion or upon any basis as each may determine is appropriate, and the Airport Authority may expend such funds for airport purposes and may pledge the credit of the Airport Authority to the extent of the appropriated funds but only in compliance with the terms and conditions attached to any such appropriation.

Section 11. Withdrawal. Except with the unanimous consent of the other governing bodies, a governing body may only withdraw from the Airport Authority by giving written notice to the other governing bodies at least five years in advance of the effective date of the withdrawal. The failure to appropriate its pro rata share of the operating and capital needs of the Airport Authority or to participate in the affairs of the Airport Authority by the appointment of its members, shall be deemed to be a withdrawal from the Airport Authority.

The withdrawal by any governing body with the consent of the remaining governing bodies shall be upon the terms and conditions as may be agreed upon; however, any withdrawal without consent shall be a forfeiture of all rights and claims against the Airport Authority and its assets and property except for property interests that may be specifically and separately titled to the withdrawing governing body.

Section 12. Dissolution. The Airport Authority shall not be dissolved nor shall the operation of the airport be terminated or suspended except with the consent of a majority three of the governing bodies. The consent authorizing the dissolution of the Airport Authority or the suspension and termination of aeronautical activities shall be in the form of a joint resolution to be presented and acted on by each of the governing

bodies, and the resolution shall set forth in full detail the plan for the dissolution of the Airport Authority and the suspension and termination of aeronautical activities, including any plan for the sale of any remaining property, the payment of all debts and obligations and the application of the fund remaining after the payment of all debts and obligations.

Section 13. Effective Date of Airport Authority. The powers granted to the Airport Authority shall not be effective and the Airport Authority authorized by this act shall not be officially established until the adoption of an ordinance or resolution by each of the governing bodies named above approving the creation of the joint airport and appointing its members. Thereafter, however, the governing bodies shall be bound by the provisions of this act.

Section 14. Effective Date. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of June, 2000.

Dennis A. Wicker
President of the Senate

James B. Black
Speaker of the House of Representatives