

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 133*
Committee Substitute Favorable 5/2/13
Senate Finance Committee Substitute Adopted 6/10/14
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Short Title: Charlotte Airport Commission Clarifications.

(Local)

Sponsors:

Referred to:

February 21, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT THE CHARLOTTE DOUGLAS INTERNATIONAL
3 AIRPORT COMMISSION IS AN AGENCY WITHIN THE CITY OF CHARLOTTE
4 AND TO EXTEND THE CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT
5 OVERSIGHT COMMITTEE BY ONE YEAR.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** This Act shall be known and may be cited as the "Charlotte Douglas
8 International Airport Commission Clarification Act."

9 **SECTION 2.(a)** Section 4(d) of S.L. 2013-358 (Charlotte Douglas International
10 Airport Oversight Committee) reads as rewritten:

11 "**SECTION 4.(d)** This section expires and the Committee terminates ~~July 1, 2015.~~July 1,
12 2016."

13 **SECTION 2.(b)** Section 4(b) of S.L. 2013-358 (Charlotte Douglas International
14 Airport Oversight Committee) reads as rewritten:

15 "**SECTION 4.(b)** The Committee shall monitor the actions of the Charlotte Douglas
16 International Airport Commission (Commission) established by this act and make regular
17 reports and recommendations, if needed (including, but not limited to, an interim report in June
18 of ~~2014-2015~~ and a final report in June of ~~2015-2016~~) to the Mayor and City Council on the
19 following points:

- 20 (1) Whether the Charlotte Douglas International Airport (Airport) continues to
21 be one of the best performing and lowest cost major hub airports.
- 22 (2) Whether that Airport finances are completely separate from those of the
23 State or of any local government.
- 24 (3) Whether the Airport contracts and pays for only the services it needs and
25 uses, including services from the State or from any local government.
- 26 (4) Whether the Airport continues to have a compensation system that enables it
27 to attract and retain top talent.
- 28 (5) Whether the operations of the Commission comply with the provisions of
29 this act."

30 **SECTION 3.** Section 5.51 of the Charter of the City of Charlotte, being S.L.
31 2000-26, as added by S.L. 2013-358, reads as rewritten:

32 "Section 5.51. **Charlotte Douglas International Airport Commission.**



1 There is created the Charlotte Douglas International Airport Commission, which shall be an
 2 agency of and within the City, having the powers, authority, and jurisdiction set out in this
 3 Article and such other and additional powers and authority as shall be conferred upon it by
 4 future acts of the General Assembly."

5 **SECTION 4.** Section 5.55(a) of the Charter of the City of Charlotte, being S.L.
 6 2000-26, as added by S.L. 2013-358, reads as rewritten:

7 "(a) The members of the Commission shall elect annually from their membership a
 8 chair, vice-chair, and shall elect a secretary and such other officers as they deem appropriate
 9 and otherwise provide for the efficient administration of the Commission's affairs; provided,
 10 however, the Commission may provide by resolution that the finance officer of the City shall
 11 by virtue of that office be also the finance officer of the Commission, and in such case shall
 12 serve as such finance officer without additional compensation. All funds of the Commission
 13 shall be kept by its treasurer in a separate bank account or accounts from other funds of the City
 14 and shall be paid out only in accordance with procedures established by such Commission.
 15 Quarterly operating statements of the Commission and an annual audited statement shall be
 16 presented to the Council. The Commission shall ~~be deemed a "special district," as defined in~~
 17 ~~G.S. 159-7, for purposes of the Local Government Budget and Fiscal Control Act and shall~~
 18 ~~budget and administer its fiscal affairs according to the provisions of that act applicable to~~
 19 ~~special districts.~~ budget and administer its fiscal affairs according to the provisions of the Local
 20 Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes,
 21 applicable to special districts, but in no event shall the Commission be deemed a special district
 22 for any purpose."

23 **SECTION 5.** Section 5.56 of the Charter of the City of Charlotte, being S.L.
 24 2000-26, as added by S.L. 2013-358, reads as rewritten:

25 "Section 5.56. **Powers and Duties.**

26 (a) The Commission shall operate the airport in a proper, efficient, economical, and
 27 business-like manner, to the end that it may effectively serve the public needs for which it was
 28 established at the least cost and expense to the City. To that end, the Commission shall have the
 29 power and authority to do the following:

30 ...

31 (4) Operate the ~~airport.~~ Airport on behalf of the City.

32 (5) Purchase, acquire, develop, establish, construct, own, control, lease, equip,
 33 improve, administer, maintain, operate, and/or ~~regulate~~ regulate, on behalf of
 34 the City, airports and/or landing fields for the use of airplanes and other
 35 aircraft and all facilities incidental thereto, within the limits of Mecklenburg
 36 County; and for any of such purposes, purchase, acquire, own, develop,
 37 hold, lease, sublease, and ~~operate~~ operate, on behalf of the City, real and/or
 38 personal property comprising such airports.

39 (6) Purchase real and personal ~~property.~~ property on behalf of the City.

40 ...

41 (10) Make all reasonable rules and regulations and policies as it may from time to
 42 time deem to be necessary, beneficial, or helpful for the proper maintenance,
 43 use, occupancy, operation, and/or control of any airport or airport facility
 44 owned, leased, subleased, or controlled by the ~~Commission~~ City and provide
 45 and enforce civil and criminal penalties for the violation of such rules,
 46 regulations, and/or policies; provided that such rules, regulations, policies,
 47 and penalties are not in conflict with (i) any applicable law, rules, or
 48 regulation of the State of North Carolina, the United States, or any agency,
 49 department, or subdivision of either of them, including the rules and
 50 regulations of the FAA or the Transportation Security

~~Administration.~~ Administration or (ii) the terms of any grant agreement in effect with the FAA.

- (11) With the approval of the ~~City, Council,~~ sell, exchange, lease, sublease, or otherwise dispose of any property, real or personal, ~~belonging to~~ owned by the Commission and not needed by the Commission to operate any airport owned or operated by it or to generate revenues to pay debt obligations of the Commission, or grant easements over, through, under, or across any real property belonging to the Commission, or donate to another governmental entity within North Carolina or to the United States any surplus, obsolete, or unused personal property; provided Article 12 of Chapter 160A of the General Statutes does not apply and is not applicable to any such sale, exchange, lease, sublease, grant, donation, or other disposition.

- ...
- (15) Accept on behalf of the City grants of money and/or materials or property of any kind for any existing or future airport facilities from the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the FAA or from any private agency, entity, or individual, upon such terms and conditions as may be imposed, and enter into contracts and grant agreements on behalf of the City with the FAA and/or with the State of North Carolina or any of its agencies, departments, or subdivisions, in the capacity of sponsor or cosponsor of any airport development project involving the acquisition, construction, development, reconstruction, improvement, extension, enlargement, or equipping of any existing or future airport facilities.

- ...
- (18) Employ, hire, retain, or contract with such servants whose services may from time to time be deemed by the Commission to be necessary, beneficial, or helpful. In order to effectuate a seamless ~~transfer of the Airport from the ownership and operation by the City of Charlotte to the ownership and operation by start-up of the Commission, Commission's operation,~~ the Commission will honor and be bound by all existing contracts between the City and such servants as presently are engaged to assist the City with respect to the Airport.

- (19) Apply for and hold an airport operating certificate issued by the FAA. Should the FAA or a court of competent jurisdiction determine that the Commission lacks any necessary FAA authorizations, the Commission shall not exercise any rights, powers, or duties that require authorization from the FAA until the Commission either obtains such authorizations or secures an appropriate determination from the FAA or a court of competent jurisdiction.

(b) As provided by general law, it shall be the responsibility of the City ~~as governed by its Council~~ Council to take all necessary actions for all issuance of revenue bonds and/or refunding revenue bonds pursuant to the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, all issuance of general obligation debt pursuant to the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes, and all purchase of any of its outstanding bonds or notes. The Commission shall keep the City Manager and Council promptly apprised of any future need for such actions."

SECTION 6. Section 5.57 of the Charter of the City of Charlotte, being S.L. 2000-26, as added by S.L. 2013-358, reads as rewritten:

"Section 5.57. **Eminent Domain.**

1 The Commission may not exercise any powers of eminent domain. Any eminent domain
2 with respect to acquisition of property for airport purposes shall be exercised by the ~~City~~
3 Council."

4 **SECTION 7.** Section 5.58 of the Charter of the City of Charlotte, being S.L.
5 2000-26, as added by S.L. 2013-358, reads as rewritten:

6 "Section 5.58. **Exemptions; Taxes.**

7 The Commission has the same exemptions with respect to payment of taxes and license fees
8 as otherwise provided for the City by the laws of this State. The Commission is not authorized
9 to levy any tax."

10 **SECTION 8.** Section 5.59 of the Charter of the City of Charlotte, being S.L.
11 2000-26, as added by S.L. 2013-358, reads as rewritten:

12 "Section 5.59. **Funds and Property.**

13 (a) The Commission shall have control, on behalf of the City, of the Airport Property,
14 Airport Facilities, and all other property held or owned by the City of Charlotte with respect to
15 the Airport, real or personal, tangible or intangible, and includes all cash and cash equivalents
16 and checking, investment, and demand deposit bank accounts held by the City pertaining to or
17 generated from revenues of the Airport, including, without limiting the generality hereof,
18 amounts on deposit in or with respect to the Discretionary Fund, the Cannon Fund, the Revenue
19 Fund, the Operating Fund, the Bond Funds, the Debt Service Funds, the Construction Funds,
20 the Capital Projects Funds, Passenger Facility Charges, Contract Facility Charges, and all other
21 funds and accounts of the City with respect to the Airport. This Article does not impair the
22 City's obligations to servants and employees of the Commission and bondholders of the City's
23 General Airport Revenue Bonds, and including, without limiting the generality hereof, the
24 obligations under the Revenue Bond Order adopted November 18, 1985, and all Series
25 Resolutions issued under the Bond Order, the Special Facility Bond Order adopted May 11,
26 1987, and all Series Resolutions adopted under the Special Facility Bond Order, and the
27 Taxable Special Facility Revenue Bonds (Consolidated Car Rental Facilities Project) Series
28 2011 General Trust Indenture and the Series Indenture, Number 1, both dated November 1,
29 2011, and all agreements and understandings with respect to trustee(s) or paying agent(s) of the
30 City's airport revenue bonds, letters of credit, or other credit facilities of the City with respect to
31 airport revenue bonds, and all leases, licenses, options to purchase, and other encumbrances on
32 the Airport Property and Airport Facilities, whether or not those encumbrances are recorded.
33 Any such payments shall be made by the City through the Commission under the terms of such
34 contracts first with funds under the jurisdiction of the Commission. This act does not affect the
35 title of any property. ~~If the property was Property titled to the City of Charlotte prior to~~
36 ~~enactment of this Article, that title remains with the City.~~ Article remains titled to the City
37 following enactment of this Article.

38 (b) The Commission acts on behalf of the City with respect to all rights, duties, and
39 obligations of the City in any commercial or development agreements pertaining to or related to
40 the Airport Property and Airport Facilities that are in effect at the time of the ~~transfer,~~
41 enactment of this Article, and any commercial agreements, development agreements, and other
42 contracts of the City pertaining to or related to the Airport Property and Airport Facilities that
43 are in effect on enactment of this Article remain in effect.

44 (c) The Commission, on behalf of the City, shall:

- 45 (1) Honor and be bound by all pending or executory land or real property
46 purchase contracts by the City with respect to property and lands to be
47 acquired for and in connection with the Airport.
48 (2) Honor and be bound by all existing rules and regulations of the Aviation
49 Department of the City ~~of Charlotte~~ with respect to the Airport, including the
50 Airport Security Plan, until such rules and regulations shall be amended by
51 the Commission in accordance with the provisions of this Article.

- 1 (3) Honor and be bound by all existing contracts of the City with third-party
2 concessionaires and management contractors with respect to the Airport.
- 3 (4) Honor and be bound by all existing contracts and grant agreements of the
4 City with respect to the Airport.
- 5 (5) Be deemed as a matter of law to have appointed as its initial Executive
6 Director the Aviation Director of the City of Charlotte as of February 14,
7 2013, with initial compensation and benefits of the initial Executive Director
8 being the same compensation and benefits as were being received from the
9 City of Charlotte on February 14, 2013, and the initial Executive Director
10 shall be entitled as a matter of law to the continuation of the rights and
11 benefits extended to him or her under the existing retirement system of the
12 City.
- 13 (6) Be deemed as a matter of law to have adopted initially the employment and
14 human resources policies of the Commission, such policies of the City as
15 they applied to employees of the Airport on the effective date of this Article,
16 and the Commission shall be deemed to have adopted the current employee
17 handbook of the City applicable to the Airport until the Commission adopts
18 different policies or a different employee handbook."

19 **SECTION 9.** Section 5.60 of the Charter of the City of Charlotte, being S.L.
20 2000-26, as added by S.L. 2013-358, reads as rewritten:

21 "Section 5.60. ~~Assistance by City.~~ **Implementation; Assistance from other City**
22 **departments.**

23 (a) The Council, Mayor, and City Manager shall, and are hereby required to, take all
24 actions within their respective powers in order to do the following:

- 25 (1) Implement the provisions of this Article.
- 26 (2) Secure for the Commission the right and ability to fully exercise the powers
27 granted to it under this Charter and the laws of this State.
- 28 (3) Obtain a determination from the FAA that the Commission may operate the
29 Airport under the existing operating certificate issued to the City or, in the
30 alternative, a new operating certificate permitting the Commission to operate
31 the Airport.
- 32 (4) Enter into such agreements or provide such assurances as the FAA may
33 request in connection with its provisions of grants to the City or Commission
34 for the improvement or development of the Airport.

35 (b) Upon the request of the Executive Director of the Commission, the ~~City Council,~~
36 City Manager, and other City departments shall continue to provide such services to the
37 Commission as it currently provides they previously provided to the Airport ~~City's Aviation~~
38 Department and shall receive as compensation therefor from the Commission in such amount
39 as is appropriate for such services as provided by OMB Circular A-87 until the Commission
40 shall direct the City Manager to terminate such services."

41 **SECTION 10.** Section 5.61(b) of the Charter of the City of Charlotte, being S.L.
42 2000-26, as added by S.L. 2013-358, reads as rewritten:

43 (b) Following the time this bill becomes law, the Airport Employees shall continue to
44 receive, until provided otherwise by the Commission through the adoption of new personnel
45 policies as provided by this Article, all employment benefits currently available to the Airport
46 Employees, including, but not limited to, health care benefits, retirement benefits, disability
47 insurance, life insurance, and accrued time off or leave, and the Commission shall promptly
48 reimburse the City departments providing these services the costs of ~~providing~~ such benefits."

49 **SECTION 11.** Section 5.62 of the Charter of the City of Charlotte, being S.L.
50 2000-26, as added by S.L. 2013-358, reads as rewritten:

51 "Section 5.62. **Statutory Construction.**

1 (a) The powers of the Commission created by this Article shall be construed liberally in
2 favor of the Commission. No listing of powers included in this Article is intended to be
3 exclusive or restrictive, and the specific mention of, or failure to mention, particular powers in
4 this act shall not be construed as limiting in any way the general powers of the Commission as
5 stated in Section 5.56 of this Charter. It is the intent of this Article to grant the Commission full
6 power and right to exercise all authority necessary for the effective operation and conduct of
7 the Commission. It is further intended that the Commission should have all implied powers
8 necessary or incidental to carrying out the expressed powers and the expressed purposes for
9 which the Commission is created. The fact that this Article specifically states that the
10 Commission possesses a certain power does not mean that the Commission must exercise such
11 power unless this Article specifically so requires.

12 (b) It is intended that the Commission shall be an agency of and within the City and
13 thus part of the City's government. Nothing in this Article is intended to transfer the Airport or
14 any Airport-related property away from the City. It is further intended that, following the
15 enactment of this Article, the City, acting through the Commission, shall (i) continue to own
16 and operate the Airport, (ii) continue to serve as sponsor of the Airport in connection with any
17 grants given by the FAA, and (iii) refrain from taking any action that would impair the
18 Commission's exercise of the powers granted to the Commission or that would impair the
19 efficient operation and management of the Airport by the Commission.

20 (c) Notwithstanding any reference in this Article to ownership by the Commission of
21 real or personal property, all real or personal property subject to this Article is owned by the
22 City and is operated and/or administered by the Commission."

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

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