

GENERAL ASSEMBLY OF NORTH CAROLINA  
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Short Title: Greater Asheville Reg. Airport Authority.

(Local)

Sponsors:

Referred to:

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO CREATE THE GREATER ASHEVILLE REGIONAL AIRPORT  
AUTHORITY.

The General Assembly of North Carolina enacts:

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

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

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

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

**SECTION 4.(a)** The Authority shall consist of seven members, (i) one of whom must have experience in aviation, (ii) one of whom must have experience in travel and tourism, and (iii) one of whom must have experience in one or more of marketing, business



1 development, or economic development. In addition, the appointing authorities are encouraged  
2 to appoint members who, when practical, have experience in logistics, construction and/or  
3 facilities management, law, accounting and/or finance. The seven members shall be appointed  
4 as follows:

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

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

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

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

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

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

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

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

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

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

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

10          **SECTION 5.(c)** The Authority shall appoint from its members a chair, vice-chair,  
11 and such other officers as it may from time to time deem necessary, beneficial, and/or helpful  
12 for the orderly conduct of its business. The term of office of the chair and vice-chair is two  
13 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (21) Exercise all of the powers conferred by Chapter 63 of the General Statutes or  
33 any successor Chapter or law.

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

37 **SECTION 7.(a)** The Authority is hereby authorized and empowered to acquire  
38 from the Counties of Buncombe and Henderson and the City of Asheville, by agreement  
39 therewith, and such Counties and City may grant and convey, either by gift or for such  
40 consideration as allowed by federal law and as it may be deemed wise, any real and/or personal  
41 property which it now owns or may hereafter acquire, and which may be necessary, beneficial,  
42 or helpful for the construction, development, operation, and/or maintenance of any airport or  
43 facilities of same located in the Counties of Buncombe or Henderson. If the airport ceases to  
44 operate or if the Authority is dissolved, any applicable real property of the Counties of  
45 Buncombe or Henderson or the City of Asheville conveyed or transferred to the Authority  
46 under this act shall revert to the grantor.

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

1           **SECTION 7.(c)** Private property needed by the Authority for any airport, landing  
2 field, or facility may be acquired by the Authority by gift, devise, or private purchase. Aviation  
3 easements needed by the Authority for any airport, landing field, or facility may likewise be  
4 acquired by gift, devise, or private purchase. Unless the power of eminent domain is required  
5 by federal law or federal regulation, Chapter 40A of the General Statutes does not apply to the  
6 Authority, and it may not exercise the power of eminent domain. If a federal law or federal  
7 regulation does require the Authority to have the power to exercise eminent domain, it may  
8 only do so for public use for an airport purpose or purposes, and any eminent domain  
9 proceeding must be authorized jointly by all of the three appointing authorities. In no case,  
10 however, may the power of eminent domain be used for purposes not necessary for the  
11 operation of the airport, and more specifically no property may be acquired by eminent domain  
12 for such uses as hotels, motels, restaurants, or industrial parks. The power of eminent domain  
13 may not be used to acquire any interest in the Ferncliff Industrial Park as it existed on June 1,  
14 2011, except for an aviation need required by a federal agency.

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

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

19           **SECTION 7.(f)** Any claim by Henderson County against the City of Asheville or  
20 the current airport authority on account of acquisition of property by either or both of them in  
21 Henderson County is extinguished.

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

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

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

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