

## Article 7.

State and Federal Aid; Authority of Department of Transportation.

### **§ 63-65. Authority of Department of Transportation generally; "airport" defined.**

(a) The Department of Transportation is hereby authorized, subject to the limitations and conditions of this Article, to provide State aid in form of loans and grants to cities, counties, and public airport authorities of North Carolina for the purpose of planning, acquiring, constructing, or improving municipal, county, and other publicly owned or controlled airport facilities, and to authorize related programs of aviation safety, education, promotions, and long-range planning.

(b) Repealed by Session Laws 1979, c. 148, s. 1. (1967, c. 1006, s. 1; 1975, c. 716, s. 3; 1977, 2nd Sess., c. 1219, s. 39; 1979, c. 148, ss. 1, 5.)

### **§ 63-66. Administration of Article; powers of Department of Transportation.**

The Department of Transportation shall carry out the provisions of this Article. In exercising such power, the Department shall:

- (1) Promote the further development and improvement of air routes, airport facilities, seaplane bases, heliports, protect their approaches and stimulate the development of aviation, commerce and air facilities. In exercising this power, the Department shall prepare and develop goals, objectives, standards and policies for the most efficient and economical expenditure of State funds as may be appropriated for the purposes of this Article.
- (2) Publish and make available to aviation interests, the Federal Aviation Administration, and the people of the State generally, current information regarding such criteria, standards, and policies.
- (3) Prepare and keep current a State airport plan and submit annual revisions of that plan to the Federal Aviation Administration.
- (4) Make a detailed and thorough study of all applications for State assistance authorized herein and make specific recommendations regarding applications to the Federal Aviation Administration for federal grants.
- (5) Develop a plan of priorities and allocations of State funds to be revised annually.
- (6) Represent the State before all federal agencies and elsewhere where the aviation interests of the State may be affected.
- (7) Subject to the availability of funds for the purpose, promote aviation safety throughout the State and conduct such promotional, educational and other programs as may be necessary to keep the people of the State properly informed with respect to aviation and to further aeronautics generally throughout the State. (1967, c. 1006, s. 1; 1973, c. 507, s. 5; c. 1262, ss. 28, 86; c. 1443, s. 1; 1975, c. 716, s. 3; 1979, c. 148, ss. 2, 5; 2011-266, s. 1.21(c).)

### **§ 63-67. Activities eligible for State aid.**

Loans and grants of State funds may be made for the planning, acquisition, construction, or improvement of any airport, seaplane base, or heliport owned or controlled, or which will be owned or controlled by any city, county or public airport authority acting by itself or jointly with any other city or county. An airport, seaplane base, or heliport development project or activity eligible for State aid under this Article shall also be deemed to include projects such as air navigation facilities, aviation easements, and the acquisition of land, lighting, marking, security

items, terminal improvements, and the elimination of aviation safety hazards, and the preservation or enhancement of essential air service as defined by the Federal Aviation Act of 1958, as amended. (1967, c. 1006, s. 1; 1973, c. 1443, s. 2; 1977, 2nd Sess., c. 1219, s. 39.1; 1979, c. 148, s. 5; 1987 (Reg. Sess., 1988), c. 1086, s. 164.)

### **§ 63-68. Limitations on State financial aid.**

Grants and loans of funds authorized by this Article shall be subject to the following conditions and limitations:

- (1) Loans and grants may be for such projects, activities, or facilities as would in general be eligible for approval by the Federal Aviation Administration or its successor agency or agencies with the exception that the requirement that the airport be publicly owned shall not be applicable. Further, airport terminal and security areas, seaplane bases, and heliports are also eligible for State financial aid.
- (2) Loans and grants of State funds shall be limited to a maximum of fifty percent (50%) of the nonfederal share of the total cost of any project for which aid is requested, and shall be made only for the purpose of supplementing such other funds, public or private, as may be available from federal or local sources provided, however, using one hundred percent (100%) State funding in its discretion the Department of Transportation may purchase, install and maintain navigational aids necessary for the safe, efficient use of airspace and may conduct other projects or programs to improve the safety and planning of the air transportation system, including but not limited to, marking serviceable runways and taxiways. Further, the Department of Transportation may contract out the maintenance and installation of state-owned navigational aids when necessary and may give or transfer such aids to the Federal Aviation Administration.
- (3) Loans and grants of State funds shall be made from General Assembly appropriations specifically designated for aviation improvement, and from no other source. The Department of Transportation may utilize the State Aviation Grant Funds to cover the direct and indirect costs of administering airport grant projects, other services authorized by this Article including planning, and the costs of services provided by nonadministrative Department of Transportation divisions or other State agencies in connection with these projects.
- (4) Notwithstanding the provisions of this section or G.S. 63-67, the Department of Transportation may allow up to ten percent (10%) of State aviation grant funds to be used for maintenance on General Aviation and Air Carrier Airports having a Department of Transportation approved maintenance plan on a seventy-five percent (75%) local – twenty-five percent (25%) State basis.
- (5) Notwithstanding the provisions of this section, the Department of Transportation may allow loans and grants of State funds up to eighty percent (80%) of the nonfederal share of the total cost of the development of new or unpaved publicly owned airports identified in the North Carolina Airport System Plan, provided that such funding shall be limited to land acquisition, site preparation, basic runway, taxiway, and apron system construction, together with associated lighting and navigational aids, and construction of the primary

airport access road. Electronic navigational aids, terminal buildings, access taxiways, and other items eligible for State airport aid at the rate of fifty percent (50%) of the nonfederal share of project cost shall not be eligible for the foregoing eighty percent (80%) State funding, even though constructed as part of the initial airport development.

- (6) Notwithstanding the provisions of this section, the Department of Transportation may allow loans and grants of State funds up to ninety percent (90%) of the total cost of the development of new or unpaved publicly owned rural airports identified in the North Carolina Airport System Plan and receiving no federal funding. Such State funding shall be limited to land acquisition, site preparation, basic runway, taxiway, and apron system construction, together with associated lighting and navigational aids, and construction of the primary airport access road.

The Department of Transportation shall develop rules and regulations to define rural airports. (1967, c. 1006, s. 1; 1969, c. 293; 1973, c. 1262, s. 28; c. 1443, s. 3; 1975, c. 716, s. 3; 1977, 2nd Sess., c. 1219, s. 39.2; 1979, c. 148, ss. 3, 5; c. 149; 1981, c. 1117, ss. 1, 2; 1983, c. 319; 1983 (Reg. Sess., 1984), c. 1094; 1985, c. 782; 1989, c. 636; 1991, c. 430, s. 1.)

### **§ 63-69. Sources of State funds.**

State financial assistance under this Article shall be limited to appropriations of funds made for the purpose by the General Assembly to the Department of Transportation, or to private funds which may become available to the Department for such purpose. (1967, c. 1006, s. 1; 1973, c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, s. 5.)

### **§ 63-70. Acceptance, receipt, accounting, and expenditure of State and federal funds.**

All North Carolina municipalities, counties and public airport authorities are hereby authorized to accept, receive, receipt for, disburse and expend State funds, and other funds, public and private, which may be made available to them to accomplish any purpose of this Article. All federal funds accepted and expended by any municipality or county shall be accepted, accounted for, and expended according to such terms and conditions as may be prescribed by the United States and not inconsistent with State law. All State funds accepted by any municipality, county or public airport authority shall be accepted, accounted for, and expended according to such terms and conditions as may be prescribed by the Department of Transportation. Unless otherwise prescribed by the federal or State agency from which funds were made available, the chief financial officer of the municipality, county or public airport authority shall deposit all funds received and keep the same in separate funds according to the purpose for which they were received. The accounting of all such funds shall be subject to the municipal and county fiscal control acts. (1967, c. 1006, s. 1; 1973, c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, s. 5.)

### **§ 63-71. Receipt of federal grants.**

(a) The Department of Transportation is hereby designated the State agency to accept grants for public airport development and improvements made by the United States pursuant to federal law. The Department shall have authority to comply with federal-aid provisions, to obtain and to disburse said grants in accordance with applicable federal laws and regulations, and to enter into contracts with the federal government, municipalities, counties, or airport authorities in

connection with said grants. The Department shall also have the authority to enter into contracts with the Federal Aviation Administration or its successor agency for aeronautics related purposes, including joint acquisition and installation of aviation related equipment in accordance with the procurement procedures of the Federal Aviation Administration where such method of acquisition would result in a cost savings to the Department.

(b) The Department of Transportation shall have authority to act as an agent of any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary of Transportation of the United States an application for federal aid in connection with airport development, improvement, or planning. (1969, c. 1109, ss. 1, 2; 1973, c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, ss. 4, 5; 1983 (Reg. Sess., 1984), c. 1093.)

**§ 63-72. Authority of Department of Transportation to operate airports and expend funds therefor.**

The Department is authorized to operate state-owned or leased airports or any airport for which the State has obtained a special use permit to operate. The Department may expend funds appropriated for grants to airports for the purpose of operating, maintaining, and improving state-owned or leased airports, or any airport for which the State has obtained a special use permit to operate and maintain. (1969, c. 1109, s. 3; 1973, c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, s. 5.)

**§ 63-73. Letting of contracts.**

All contracts that the Department of Transportation may let for construction, repair, maintenance or those services listed in 49 U.S.C. App. § 2210(a)(16) in furtherance of this Article shall be let in accordance with the provisions of G.S. 136-28.1. (1983 (Reg. Sess., 1984), c. 1033, s. 1; 1991, c. 430, s. 2.)

**§ 63-74. Airport Improvement Program.**

(a) Purpose. – There is established an Airport Improvement Program (AIP) that shall serve to (i) fund improvements at eligible airports and (ii) pay debt service or related financing costs and expenses on revenue bonds or notes issued by eligible airports. The Department of Transportation shall allocate funds appropriated to this program to eligible airports based on the findings in the biennial economic impact study, as described in this section. The Department shall adopt rules governing the distribution and use of these funds.

(b) Eligible Airport. – Any publicly owned, commercial service airport with more than 10,000 passenger boardings during the two calendar years preceding the fiscal year in which funds are allocated is eligible for Airport Improvement Program funds.

(c) Economic Impact Study and Distribution Formula. – The Department of Transportation shall conduct a biennial economic impact study that examines the annual economic impact of each commercial service airport in North Carolina. The Department shall disburse AIP funds appropriated in a year to each eligible airport in proportion to the total economic impact of the airport, adjusted as provided in this subsection:

(1) For an eligible airport with one of the three largest economic impacts, the airport's distribution amount shall be reduced by a percentage equal to the lesser of twenty percent (20%) or five percent (5%) multiplied by each full ten percent (10%) of economic impact calculated for that airport. The aggregate amount of the reduction to the eligible airports with the three largest economic impacts is

the amount to be redistributed to the remaining eligible airports as provided in subdivision (2) of this subsection.

(2) For an eligible airport that does not have one of the three largest economic impacts, the airport's distribution amount shall be increased based upon the following formula:

- a. Twenty-five percent (25%) of the redistribution amount shall be distributed equally.
- b. Seventy-five percent (75%) of the redistribution amount shall be based upon the airport's share of passenger boardings compared to the total number of passenger boardings used for all airports receiving a distribution pursuant to this subdivision.

(d) Permissible Uses, Reporting, and Return of Funds. – The Department of Transportation shall not allocate funds to an airport under this section until that airport has provided a report outlining how the airport will use the funds in conformance with the purposes of the program. Airports shall submit their report between July 1 and August 15 of the fiscal year. No later than 45 days from the date the Department receives the report required under this subsection, the Department shall determine whether the intended use of the funds matches the purposes of the program and, if so, allocate funds under this section to the compliant airport. The Department of Transportation shall disburse funds appropriated under this section on a quarterly basis beginning September 30 of the fiscal year. An airport that receives funds under this section shall return the funds to the Department if the funds are in the possession or control of the airport and not expended or encumbered by September 30 of the year following the fiscal year in which the Department makes the allocation. All funds returned to the Department under this section, or retained by the Department for failure of an eligible airport to submit a report under this subsection, shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly.

(e) Limitation. – Notwithstanding any provision of law to the contrary, the allocation of funds under this section to eligible airports, the enactment of this section, and the issuance of bonds or notes by the airports in reliance thereon shall not in any manner constitute a pledge of the full faith and credit and taxing power of the State. Additionally, allocations under this section are subject to the availability of funds appropriated to the Airport Improvement Program. A security interest shall not be granted in funds allocated under this section. (2019-199, s. 4(a); 2021-180, s. 41.12(b).)

#### **§ 63-74.2. Division of Aviation grant funded positions prohibited.**

The Department of Transportation shall not create or authorize any Division of Aviation positions that are paid for using State funds appropriated for State Aid to Airports or any other airport aid program. (2021-180, s. 41.13(b).)

#### **§ 63-74.5. Division of Aviation annual report.**

Beginning October 1, 2021, and annually thereafter, the Division of Aviation shall submit to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division a report containing the following information from the prior fiscal year:

(1) A list of all public use airports within the State, their municipality and county, status as commercial services or general aviation, airport code, and the following corresponding information:

- a. Total amount of funds allocated to each airport subtotaling federal, Commercial Services, State Aid to Airports, Special Projects, Economic Development, and State Transportation Improvement Program dollars and total number of projects receiving allocations.
  - b. Total amount of funds disbursed to each airport subtotaling federal, Commercial Services, State Aid to Airports, Special Projects, Economic Development, and State Transportation Improvement Program dollars and total number of projects receiving disbursements.
  - c. Total amount of unallocated State appropriations for Commercial Services, State Aid to Airports, Special Projects, and Economic Development.
- (2) Summary of activities related to unmanned aircraft systems, including total number of drones owned subtotalized by units of the Department of Transportation and by other State agencies, purposes and uses of drones in each unit and agency, a list describing each private sector partnership to which the Division of Aviation is a party, and any other activities of this unit.
- (3) Total number of trips and flight hours by each manned aircraft owned by the Department of Transportation, subtotalized by agency, fees charged to each agency, and total cost of providing services to each agency.
- (4) Summary of activities related to Safety and Education, including total expenditures, number and description of programs, and number of participants.  
(2021-180, s. 41.11(a).)