

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 780
SENATE BILL 1184

AN ACT TO ALLOW THE CREATION OF REGIONAL SPORTS AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 160A of the General Statutes is amended to add a new Part to read as follows:

"Part 3. Regional Sports Authorities.

"§ 160A-479. Creation of authority; definition.

(a) Any two or more units of local government may create a regional sports authority by adopting identical concurrent resolutions to that effect in accordance with the provisions of this Part. The concurrent resolutions creating a regional sports authority, and any amendments thereto will be referred to in this Part as the 'charter' of the regional sports authority. For the purposes of this Part, 'unit of local government' means a county, city or consolidated city-county.

(b) Any regional sports authority created pursuant to this Part shall be a body corporate and politic.

"§ 160A-479.1. Purpose of the authority.

The purpose of a regional sports authority shall be to research, design, construct, provide, finance, operate, improve, and maintain facilities for public participation and enjoyment of sports, fitness, health and recreational activities of as many different types and kinds as possible. The primary purpose of any and all such facilities shall be the conduct of sports events but use of these facilities need not be limited to such.

"§ 160A-479.2. Jurisdiction of the authority.

(a) The territorial jurisdiction of any authority created pursuant to this Part shall be coterminous with the boundaries of the respective units of local government creating and participating in the authority.

(b) The jurisdiction of any authority created pursuant to this Part shall include any and all currently existing public sports facilities operating within its territorial jurisdiction to the extent that any person or governmental entity owning or controlling such facilities has reached mutual and written agreement with an authority for the operation and maintenance of such facilities by the authority.

(c) The jurisdiction of an authority shall also include any and all new public sports facilities within the regional authority's territorial jurisdiction developed specifically for operation and maintenance by an authority with the agreement of an authority.

"§ 160A-479.3. Membership.

Each unit of local government initially adopting a concurrent resolution under G.S. 160A-479 shall become a member of the regional authority. Thereafter, any local government may join the regional authority by ratifying its charter and by being admitted by a majority vote of the existing members. All of the rights and privileges of membership in a regional sports authority shall be exercised on behalf of its member governments by their delegates to the authority.

"§ 160A-479.4. Contents of charter.

The charter of a regional sports authority shall:

- (1) Specify the name of the authority;
- (2) Establish the powers, duties, and functions that it may exercise and perform;
- (3) Establish the number of delegates to represent the member governments, fix their terms of office, provide methods for filling vacancies, and prescribe the compensation and allowances, if any, to be paid to delegates;
- (4) Set out the method of determining the financial support that will be given to the authority by each member government;
- (5) Establish a method for amending the charter, and for dissolving the authority and liquidating its assets and liabilities.

In addition, the charter may, but need not, contain rules and regulations for the conduct of authority business and any other matter pertaining to the organization, powers, and functioning of the authority that the member governments deem appropriate.

"§ 160A-479.5. Organization of authority.

Upon its creation, a regional sports authority shall meet at a time and place agreed upon by its member governments and shall organize by electing a chairman and any other officers that the charter may specify or the delegates may deem advisable. The authority shall then adopt bylaws for the conduct of its business. All meetings of the authority shall be open to the public.

"§ 160A-479.6. Withdrawal from authority.

Any member government may withdraw from a regional sports authority at the end of any fiscal year by giving at least 60 days' written notice to each of the other members. A withdrawal does not affect the validity of any revenue bonds or notes, and any revenue from sports facilities in the area of the member government that was pledged in payment of bonds or notes issued before the date of notice of withdrawal remains pledged for that purpose until the bonds and notes and interest on the bonds and notes have been paid. Withdrawal of a member government shall not dissolve the authority if at least two members remain.

"§ 160A-479.7. Powers of authority.

(a) The charter may confer on the regional sports authority any or all of the following powers:

- (1) To apply for, accept, receive, and dispense funds and grants made available to it by the State of North Carolina or any agency thereof, the United States of America or any agency thereof, any unit of local

- government (whether or not a member of the authority), and any private or civic agency;
- (2) To employ personnel;
 - (3) To contract with consultants;
 - (4) To contract with the State of North Carolina, any other state, the United States of America, or any agency thereof, for services;
 - (5) To adopt bylaws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations and policies in connection with the performance of its functions and duties, not inconsistent with this Part;
 - (6) To adopt an official seal and alter the same at pleasure;
 - (7) To acquire and maintain an administrative building or office at such place or places as it may determine, which building or office may be used or owned alone or together with any municipalities, corporations, associations or persons under such terms and provisions for sharing costs and otherwise as may be determined;
 - (8) To sue and be sued in its own name, and to plead and be impleaded;
 - (9) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money;
 - (10) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than the fee thereof;
 - (11) To sell, lease, exchange, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;
 - (12) To pledge, assign, mortgage, or otherwise grant a security interest in any real or personal property or interest therein, including the right and power to pledge, assign, or otherwise grant a security interest in any money, rents, charges, or other revenues and any proceeds derived by an authority from any and all sources;
 - (13) To issue revenue bonds of the authority to finance regional sports and recreational facilities, including support facilities, to refund any revenue bonds or notes issued by the authority, whether or not in advance of their maturity or earliest redemption date, or to provide funds for other corporate purposes of the authority.
 - (14) With the approval of the unit of local government's chief administrative official, to use officers, employees, agents, and facilities of the unit of local government for such purposes and upon such terms as may be mutually agreeable;
 - (15) To develop and make data, plans, information, surveys, and studies of public sports and recreation facilities within the territorial jurisdiction of an authority, to prepare and make recommendations in regard thereto;

- (16) To study and plan for new and improved major regional sports and recreational facilities including but not limited to arenas, stadia, gymnasia, natatoria, pitches, fields, water courses, and other areas for the conduct of sports and recreational activities. These facilities should be of such sizes and in such locations that they will be adequate to serve the population of the entire jurisdiction of the authority (and beyond) to the extent possible;
- (17) To design any new such facilities so they include such equipment and design that efficiency, cost, accessibility, utility, and usability of such facilities will be maximized;
- (18) To have sports facilities grouped into complexes or separated as an authority may see fit, and such facilities may include ancillary support facilities including but not limited to those for administration, sports science, sports medicine, training, museums, meeting rooms and conference centers, accommodations, food services, retail shops, theatres, video services, schools, and educational services.
- (19) To operate the facilities in such a way as to make them as accessible as possible for rental and use by the public while balancing the need for as many of the facilities as possible (particularly any arenas and stadia) to operate annually without a deficit (exclusive of any debt service);
- (20) To operate such facilities together with the State, any entity of the State, or local government as appropriate to maintain a high profile and promotional value for North Carolina and the region encompassed by an authority and to attract as many major regional, national, and international tournaments, events, championships training centers, training camps, and headquarters for the governance of various sports, associations, and events as reasonable and possible;
- (21) To generate a significant and continuing positive economic impact on the region and State through the construction and operation of facilities and conduct of events and activities within the facilities;
- (22) To set and collect such fees and charges for use of such facilities as is reasonable to offset operating costs of said facilities and yet enable said facilities to be affordable to and used by as much of the regional and State population as possible;
- (23) To apply to the appropriate agencies of the State, the United States or any state thereof, and to any other proper agency for such permits, licenses, certificates or approvals as may be necessary, and to construct, maintain and operate projects in accordance with such licenses, permits, certificates or approvals in the same manner as any other person or operating unit of any other person;
- (24) To employ engineers, architects, attorneys, real estate counselors, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of an authority and to fix and pay their compensation from funds available to an authority

therefor and to select and retain subject to approval of the Local Government Commission, the financial consultants, underwriters and bond attorneys to be associated with the issuance of any revenue bonds and to pay for services rendered by underwriters, financial consultants, or bond attorneys out of the proceeds of any such issue with regard to which the services were performed; and

(25) To do all acts and things necessary, convenient, or desirable to carry out the purposes, and to exercise the powers granted to an authority herein.

(b) The charter may not confer the following powers on the regional sports authority:

(1) To issue general obligation bonds or otherwise incur a debt that is secured by the full faith and/or credit of the authority, a member government of the authority, or the State.

(2) To levy a property tax or other tax.

(3) To acquire property by eminent domain.

"§ 160A-479.8. Fiscal accountability.

A Regional Sports Authority is a public authority subject to the provisions of Chapter 159 of the General Statutes of North Carolina.

"§ 160A-479.9. Funds.

(a) The establishment and operation of an authority as herein authorized are governmental functions and constitute a public purpose, and the State of North Carolina and any unit of local government may appropriate funds to support the establishment and operation of an authority.

(b) The State of North Carolina and any unit of local government may also dedicate, sell, convey, donate or lease any of their interests in any property to an authority.

"§ 160A-479.10. Controlling provisions.

Insofar as the provisions of this Part are not consistent with the provisions of any other law, public or private, the provisions of this Part shall be controlling.

"§ 160A-479.11. Conflicts of interest of public officials.

Members, officers, and employees of any authority created under this Part shall be subject to the provisions of G.S. 14-234.

"§ 160A-479.12. Issuance of revenue bonds and notes.

The Local Government Revenue Bond Act, G.S. Chapter 159, Article 5, governs the issuance of revenue bonds by an authority. G.S. Chapter 159, Article 9, governs the issuance of notes in anticipation of the sale of revenue bonds.

"§ 160A-479.13. Acquisition of property.

In addition to the powers hereinbefore granted, an authority may, in its charter, be granted continuing power to acquire, by gift, grant, devise, bequest, exchange, purchase, lease with or without option to purchase, or any other lawful method, the fee or any lesser interest in real or personal property for use by an authority.

"§ 160A-479.14. Tax exemption.

(a) The property of an authority, both real and personal, its acts, activities and income shall be exempt from any tax or tax obligation; in the event of any lease of authority property, or other arrangement which amounts to a leasehold interest, to a private party, this exemption shall not apply to the value of such leasehold interest nor shall it apply to the income of the lessee.

(b) Otherwise, however, for the purpose of taxation, when property of an authority is leased to private parties solely for the purpose of an authority, the acts and activities of an authority for the purpose of exemption of the lessee shall be considered as the acts and activities of the private parties.

(c) The interest on revenue bonds or notes issued by an authority shall be exempt from State taxes.

"§ 160A-479.15. Removal and relocation of utility structures.

(a) An authority may require any public utility, railroad, or other public service corporation owning or operating any installations, structures, equipment, apparatus, appliances or facilities in, upon, under, over, across or along any land or facility where an authority has the right to own, construct, operate or maintain its facilities to remove or relocate such installation, structures, equipment, apparatus, appliances or facilities from their location.

(b) If the owner or operator thereof fails or refuses to remove or relocate them, an authority may proceed to do so.

(c) An authority may provide the necessary new locations or an authority may also acquire the necessary new locations by purchase or otherwise, but not by eminent domain.

(d) An authority shall reimburse the public utility, railroad or other public service corporation, for the cost of relocations which shall be the entire amount paid or incurred by the utility properly attributable thereto after deducting the cost of any increase in the service capacity of the new installations, structures, equipment, apparatus, appliances or facilities and any salvage value derived from the old installations, structures, equipment, apparatus or appliances.

"§ 160A-479.16. Advances.

Any member government unit may make advances, from any moneys that may be available for such purpose, in connection with the creation of the authority and to provide for the preliminary expenses of such authority. Any such advances may be repaid to such participating units of local government from the proceeds of the revenue bonds issued by such authority, if capital in nature, or from other available funds of the authority.

"§ 160A-479.17. Annexation.

The annexation by a member government which is a city of areas lying outside of the territorial jurisdiction of the authority shall make such annexed area a part of the territorial jurisdiction of the authority, and such area shall be subject to all debts and all obligations thereof."

Sec. 1.1. G.S. 105-164.14(c), as amended by Section 5 of Chapter 168 of the 1989 Session Laws and Chapter 251 of the 1989 Session Laws, reads as rewritten:

"(c) Upon receipt of timely applications for refund, the Secretary of Revenue shall make refunds annually to all governmental entities, as hereinafter defined, of sales and use tax paid under this Article, except under G.S. 105-164.4(4a) and G.S. 105-164.4(c), by said governmental entities on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by such governmental entities on building materials, supplies, fixtures and equipment which shall become a part of or annexed to any building or structure being erected, altered or repaired which is owned or leased by such governmental entities shall be construed as sales or use tax liability incurred on direct purchases by such governmental entities, and such entities may obtain refunds of such taxes indirectly paid. The refund provisions contained in this subsection shall not apply to any governmental entities not specifically named herein. In order to receive the refund herein provided for, governmental entities shall file a written request for said refund within six months of the close of the fiscal year of the governmental entities seeking said refund, and such request for refund shall be substantiated by such records, receipts and information as the Secretary may require. No refunds shall be made on applications not filed within the time allowed by this section and in such manner as the Secretary may otherwise require. The term 'governmental entities,' for the purposes of this subsection, shall mean all counties, incorporated cities and towns, water and sewer authorities created and existing under the provisions of Chapter 162A of the General Statutes, lake authorities created by a board of county commissioners pursuant to an act of the General Assembly, sanitary districts, regional councils of governments created pursuant to G.S. 160A-470, area mental health, mental retardation, and substance abuse authorities (other than single-county area authorities) established pursuant to Article 4 of Chapter 122C of the General Statutes, district health departments, regional planning and economic development commissions created pursuant to G.S. 158-14, regional sports authorities created pursuant to G.S. 160A-479, regional economic development commissions created pursuant to G.S. 158-8, regional planning commissions created pursuant to G.S. 153A-391, metropolitan sewerage districts and metropolitan water districts in this State, the North Carolina Low-Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes, the North Carolina Hazardous Waste Management Commission created pursuant to Chapter 130B of the General Statutes, and the Rockingham County Airport Authority."

Sec. 2. G.S. 159-81(1) reads as rewritten:

"(1) 'Municipality' means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority, hospital authority, hospital district, parking authority, special airport district, regional sports authority, and airport authority, a joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, but not any other forms of local government."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of August, 1989.