

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1878

Short Title: Avery County Airport Authority.

(Local)

Sponsors: Representatives Thompson; and Flaherty.

Referred to: Finance.

May 30, 1994

A BILL TO BE ENTITLED

1 AN ACT TO ENABLE THE COUNTY OF AVERY TO ESTABLISH AN AIRPORT
2 AUTHORITY FOR THE MAINTENANCE OF AIRPORT FACILITIES IN THE
3 COUNTY.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. There is hereby created the "Avery County Airport Authority" (for
7 brevity hereinafter referred to as the "Airport Authority"), which shall be a body
8 corporate and politic, having the powers and jurisdiction hereinafter enumerated and
9 such other and additional powers as shall be conferred upon it by general law and future
10 acts of the General Assembly.

11 Sec. 2. The Airport Authority shall consist of five members who shall be
12 appointed to staggered terms of four years by the Avery County Board of
13 Commissioners. Three of the members shall be residents of Avery County and two of
14 the members may be nonresidents of Avery County. The terms of the initial five
15 members of the Airport Authority shall be: one member who is a resident of Avery
16 County and one member who is a nonresident of Avery County shall be appointed to a
17 term of four years; the remaining three members shall be appointed for terms of two
18 years. Thereafter all terms shall be for four years. Each member shall take and
19 subscribe before the Clerk of the Superior Court of Avery County an oath of office and
20 file the same with the Avery County Board of Commissioners. Upon the occurrence of
21 any vacancy on the Airport Authority, the vacancy shall be filled within 60 days after
22 the vacancy occurs at a regular meeting of the Board of County Commissioners.

23 Sec. 3. The Airport Authority may adopt suitable bylaws for its management.
24 The members of the Airport Authority shall receive no compensation or per diem or

1 otherwise, but shall be allowed and paid their actual traveling expenses incurred in
2 transacting the business and at the instance of the Airport Authority.

3 Sec. 4. The Airport Authority shall constitute a body, both corporate and
4 politic, and shall have the following powers and authority:

- 5 (1) To purchase, acquire, establish, construct, own, control, lease, equip,
6 improve, maintain, operate, and regulate airports and landing fields for
7 the use of airplanes and other aircraft within the limits of the County
8 and for this purpose to purchase, improve, own, hold, lease or operate,
9 or both, real or personal property;
- 10 (2) To borrow money and to issue bonds and to secure the same by
11 mortgages, with the consent of the Avery County Board of
12 Commissioners on any property held or to be held by it;
- 13 (3) Sue and be sued in the name of the Airport Authority, to acquire by
14 purchase and to hold lands for the purpose of constructing,
15 maintaining, or operating any airport within the limits of Avery
16 County, and to make contracts and hold any personal property
17 necessary for the exercise of the powers of the Airport Authority. The
18 Airport Authority may acquire by purchase, or otherwise, any existing
19 lease, leasehold right, or other interest in any existing airport located in
20 the County;
- 21 (4) Charge and collect reasonable and adequate fees and rents for the use
22 of airport property or for services rendered in the operation of the
23 airport;
- 24 (5) To make all reasonable rules and regulations it deems necessary for the
25 proper maintenance of the airport and provide penalties for the
26 violation of these rules and regulations; provided, the rules and
27 regulations and schedules of fees not be in conflict with the laws of
28 North Carolina, and the rules and regulations of the Federal Aviation
29 Administration;
- 30 (6) To issue revenue bonds pursuant to Article 5 of Chapter 159 of the
31 General Statutes;
- 32 (7) To sell, lease, or otherwise dispose of any property, real or personal,
33 belonging to the Airport Authority, according to the procedures
34 described in Article 12 of Chapter 160A of the General Statutes, but no
35 sale of real property shall be made without the approval of the Avery
36 County Board of Commissioners;
- 37 (8) To purchase any insurance that the Federal Aviation Authority or the
38 Airport Authority shall deem necessary. The Airport Authority shall
39 be responsible for any and all insurance claims or liabilities. Avery
40 County shall not undertake any personal or property liability;
- 41 (9) To deposit or invest and reinvest any of its funds as provided by the
42 Local Government Finance Act, as it may be amended from time to
43 time, for the deposit or investment of unit funds;
- 44 (10) To purchase any of its outstanding bonds or notes;

- 1 (11) To operate, own, lease, control, regulate, or grant to others the right to
2 operate on any airport premises, restaurants, snack bars, and vending
3 machines, food and beverage dispensing outlets, rental car services,
4 catering services, novelty shops, insurance sales, advertising media,
5 merchandising outlets, motels, hotels, barber shops, automobile
6 parking and storage facilities, automobile service stations, garage
7 service facilities, motion pictures, personal service establishments, and
8 all other types of facilities as may be directly or indirectly related to
9 the maintenance and furnishing to the general public of a complete air
10 terminal installation;
- 11 (12) To lease for a term not to exceed 25 years, and for purposes not
12 inconsistent with the grants and agreements under which the airport is
13 held, real or personal property under the supervision of and
14 administered by the Airport Authority;
- 15 (13) To contract with persons, firms, or corporations for terms not to
16 exceed 25 years, for the operation of airline-scheduled passenger and
17 freight flights, nonscheduled flights, and any other airplane activities
18 not inconsistent with the grant agreements under which the airport
19 property is held, and to charge and collect reasonable and adequate
20 fees, charges, and rents for the use of the property or for services
21 rendered in the operation of the airport;
- 22 (14) To erect and construct buildings, hangars, shops, and other
23 improvements and facilities, not inconsistent with or in violation of the
24 agreements applicable to and the grants under which the real property
25 of the airport is held; to lease these improvements and facilities for a
26 term or terms not to exceed 25 years; to borrow money for use in
27 making and paying for these improvements and facilities, secured by
28 and on the credit only of the lease agreements in respect to these
29 improvements and facilities, to pledge and assign the leases and lease
30 agreements as security for the authorized loans;
- 31 (15) Subject to the limitations set out in this act, have all the same power
32 and authority granted to cities and counties pursuant to Chapter 63 of
33 the General Statutes, Aeronautics; and
- 34 (16) Have a corporate seal which may be altered at will.
- 35 (b) The Airport Authority shall possess the same exemptions in respect to
36 payment of taxes and license fees and be eligible for sales and use tax refunds to the
37 same extent as provided for municipal corporations by the laws of the State of North
38 Carolina.
- 39 Sec. 5. The Airport Authority may acquire from the County, by agreement
40 with the County, and the County may grant and convey, either by gift or for such
41 consideration as the County may deem wise, any real or personal property which it now
42 owns or may hereafter acquire, including nontax monies, and which may be necessary
43 for the construction, operation, and maintenance of any airport located in the County.

1 Sec. 6. Any lands acquired, owned, controlled, or occupied by the Airport
2 Authority shall be, and are declared to be acquired, owned, controlled, and occupied for
3 a public purpose.

4 Sec. 7. Private property needed by the Airport Authority for any airport,
5 landing field, or as facilities of an airport or landing field may be acquired by gift or
6 devise, or may be acquired by private purchase or by the exercise of eminent domain
7 pursuant to Chapter 40 of the General Statutes.

8 Sec. 8. The Airport Authority shall make an annual report to the Avery
9 County Board of Commissioners setting forth in detail the operations and transactions
10 conducted by it pursuant to this act. The Airport Authority shall not have the power to
11 pledge the credit of Avery County, or any subdivision thereof, or to impose any
12 obligation on Avery County, or any of its subdivisions, except when that power is
13 expressly granted by statute or by consent of the Avery County Board of
14 Commissioners.

15 Sec. 9. Subject to the limitations as set out in this act, all rights and powers
16 given and granted to counties or municipalities by general law, which may now be in
17 effect or enacted in the future relating to the development, regulation, and control of
18 municipal airports, and the regulation of aircraft, are vested in the Airport Authority.
19 The Avery County Board of Commissioners may delegate its powers under these acts to
20 the Airport Authority, and the Airport Authority shall have concurrent rights with Avery
21 County to control, regulate, and provide for the development of aviation in Avery
22 County.

23 Sec. 10. The Airport Authority may contract with and accept grants from the
24 Federal Aviation Administration, the State of North Carolina, or any of the agencies or
25 representatives of either of said governmental bodies relating to the purchase of land
26 and air easements and to the grading, constructing, equipping, improving, maintaining,
27 or operating of an airport or its facilities or both.

28 Sec. 11. The Airport Authority may employ any agents, engineers, attorneys,
29 and other persons whose services may be deemed by the Airport Authority to be
30 necessary and useful in carrying out the provisions of Sections 1 through 10 of this act.
31 Members of the Airport Authority shall not be personally liable, in any manner, for their
32 acts as members of the Airport Authority, except for misfeasance or malfeasance.

33 Sec. 12. The Avery County Board of Commissioners may appropriate and
34 use from the net proceeds derived from the operation of the County, of any public
35 utility, or from funds derived from any other source other than ad valorem taxes, sums
36 sufficient to carry out the provisions of this act as to establishing and maintaining any
37 airport in any proportion or upon any basis as may be determined by the Avery County
38 Board of Commissioners.

39 Sec. 13. The Airport Authority may expend the funds that are appropriated
40 by the County for joint airport purposes and may pledge the credit of the Airport
41 Authority to the extent of the appropriated funds.

42 Sec. 14. The Airport Authority shall elect from among its members a
43 chairman, a secretary, and a treasurer at its initial meeting and then annually thereafter.
44 A majority of the Airport Authority shall control its decisions. Each member of the

1 Airport Authority, including the chairman, shall have one vote. The Airport Authority
2 shall meet at the places and times designated by the chairman.

3 Sec. 15. The powers granted to the Airport Authority shall not be effective
4 until the members of the Airport Authority have been appointed by the Avery County
5 Board of Commissioners, and nothing in this act shall require the Board of
6 Commissioners to make the initial appointments. It is the intent of this act to enable but
7 not to require the formation of the Avery County Airport Authority.

8 Sec. 16. If any one or more sections, clauses, sentences, or parts of this act
9 shall be adjudged invalid, such judgment shall not affect, impair, or invalidate the
10 remaining provisions thereof, but shall be confined in its operation to the specific
11 provisions held invalid, and the inapplicability or invalidity of any section, clause,
12 sentence, or part of this act in one or more instances or circumstances shall not be taken
13 to affect or prejudice in any way its applicability or validity in any other instance.

14 Sec. 17. This act is effective upon ratification.