

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**HOUSE BILL 552
RATIFIED BILL**

AN ACT TO CREATE THE GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY, TO REMOVE THE ASHEVILLE REGIONAL AIRPORT AND THE WESTERN NORTH CAROLINA AGRICULTURAL CENTER FROM THE ZONING JURISDICTION OF THE CITY OF ASHEVILLE, TO REQUIRE THE CITY OF ASHEVILLE TO CONVEY TO THE STATE OF NORTH CAROLINA ANY OF ITS RIGHT, TITLE, AND INTEREST TO THE WESTERN NORTH CAROLINA AGRICULTURAL CENTER, AND TO REMOVE THE WESTERN NORTH CAROLINA AGRICULTURAL CENTER FROM THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

PART I. GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY ACT.

SECTION 1.1. This Part shall be known and may be cited as the "Greater Asheville Regional Airport Authority Act," and any reference in this Part to "this act" means the Greater Asheville Regional Airport Authority Act.

SECTION 1.2. 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 1.3. 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 1.4.(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 development, or economic development. In addition, the appointing authorities are encouraged to appoint members who, when practical, have experience in logistics, construction and/or facilities management, law, accounting and/or finance. The seven members shall be appointed as follows:



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

SECTION 1.4.(a1) No person holding any elected public office may be a member of the Authority, provided that if an ARAA member also holds an elective public office when this act becomes effective, that member may serve as a member of the Authority until the completion of the term of elective office and until a successor is appointed and qualified.

SECTION 1.4.(b) No person who, at the time of appointment, is transacting business with the Authority or who is reasonably expected to transact business with the Authority, or is an employee, agent, or consultant of an entity transacting or expecting to transact business with the Authority, may be appointed as a member of the Authority, provided this sentence does not apply to a person who is an employee of a public utility which is the sole available supplier for the Authority. No person who, at the time of appointment, is an employee or agent of or consultant to the Authority may be appointed as a member of the Authority.

SECTION 1.4.(c) Members of the Authority shall serve four-year terms and may serve up to a total of two successive four-year terms. A member may not be reappointed to the Authority except after a lapse of four years following the most recent term served. In the event a member is appointed to fill an unexpired term, and at least two years of the unexpired term remain to be served, such appointment shall be counted in applying the two-term limit, otherwise it shall not be counted. Notwithstanding the foregoing, those individuals serving as ARAA members as of the effective date of this act may continue to serve as members of the Authority until the completion of their respective then current terms and until their successors are appointed and qualified. In the event an ARAA member resigns or is removed, the appointing authority under the agreement between the County of Buncombe and the City of Asheville shall forthwith appoint a replacement ARAA member to complete the unexpired term. Thereafter, and with respect to the four ARAA members whose terms expire June 30, 2012, the Asheville City Council, the Board of Commissioners of Buncombe County, and the Board of Commissioners of Henderson County each shall appoint one member of the Authority, and the other members shall appoint, by majority vote, the fourth member. With respect to the three ARAA members whose terms expire June 30, 2014, the Asheville City Council, the Board of Commissioners of Buncombe County, and the Board of Commissioners of Henderson County each shall appoint one member of the Authority.

SECTION 1.4.(d) Any vacancy occurring among the membership of the Authority shall be filled within 60 days after notice thereof by appointment of the appointing authority of a member to serve for the remainder of the unexpired term.

SECTION 1.4.(e) Members of the Authority and their successors shall take and subscribe to an oath of office before an officer authorized to administer oaths, which oath shall be filed with the Authority.

SECTION 1.4.(f) Any member of the Authority may be suspended or removed from office by that member's appointing authority for cause affecting that member's duties and responsibilities as a member; for misfeasance, malfeasance, or nonfeasance in office; or for conduct tending to undermine any decisions of the Authority, or conduct exposing the Authority to liability for damages.

SECTION 1.4.(g) Members of the Authority shall not be personally liable, in any manner, for their acts or omissions as members of the Authority, except for malfeasance.

SECTION 1.4.(h) Each member may continue to serve until a successor has been duly appointed and qualified, but not for more than 60 days.

SECTION 1.5.(a) The organization and business of the Authority shall be conducted as provided in this act.

SECTION 1.5.(b) Members of the Authority shall constitute the governing board of the Authority and may, among other things and from time to time, adopt suitable bylaws, not inconsistent with the provisions of this act.

SECTION 1.5.(c) The Authority shall appoint from its members a chair, vice-chair, and such other officers as it may from time to time deem necessary, beneficial,

and/or helpful for the orderly conduct of its business. The term of office of the chair and vice-chair is two years.

SECTION 1.5.(d) Each member of the Authority, including the chair, shall have one vote. A majority of the members of the Authority shall constitute a quorum, and all actions of the Authority shall be determined by a majority vote of all the members, that is four votes in favor.

SECTION 1.5.(e) The Authority shall hold meetings at least monthly at such times and places as it from time to time may designate and at such other times on the call of the chair or by four members of the Authority. Notice of meetings shall be provided as required by Article 33C of Chapter 143 of the General Statutes. A monthly meeting of the Authority may be cancelled if it is determined by the chair or four members that such meeting is not required.

SECTION 1.5.(f) Members may receive payment or reimbursement for travel, lodging, and meal expenses incurred in transacting business on behalf of the Authority. Members may also receive free parking at any airport owned, leased, subleased, or controlled by the Authority, which members may use for official and nonofficial purposes during the respective member's term of office.

SECTION 1.5.(g) The fiscal year of the Authority shall begin on July 1 and end on June 30. On or before May 15 of each year, the Authority shall prepare and adopt a proposed budget for the next ensuing fiscal year and deliver copies of such proposed budget to the Buncombe and Henderson County Boards of Commissioners and the Asheville City Council.

SECTION 1.5.(h) All meetings and closed sessions of the Authority shall be conducted in accordance with Article 33C of Chapter 143 of the General Statutes as it may be amended or in accordance with any successor statute.

SECTION 1.6.(a) The Authority shall constitute a body, both corporate and politic, and shall have the power and authority to do the following:

- (1) Adopt and from time to time revise an official seal.
- (2) Maintain an office or offices at such place or places as it may designate within Buncombe or Henderson Counties only.
- (3) Purchase, acquire, develop, establish, construct, own, control, lease, equip, improve, administer, maintain, operate, and/or regulate airports and/or landing fields for the use of airplanes and other aircraft and all facilities incidental thereto, within the limits of Buncombe and/or Henderson Counties; and for any of such purposes, purchase, acquire, own, develop, hold, lease, sublease, and operate real and/or personal property.
- (4) Purchase real and personal property.
- (5) Sue and be sued in the name of the Authority, to acquire by purchase or otherwise and to hold lands for the purpose of constructing, maintaining, and/or operating any airport within the limits of said counties, and to make such contracts and to hold such personal property as may be necessary, beneficial, and/or helpful for the exercise of the powers of the Authority. The Authority may acquire by purchase or otherwise any existing lease, sublease, leasehold right, or other interest in any existing airport facility located in the Counties of Buncombe and/or Henderson.
- (6) Charge and collect fees, royalties, rents, and/or other charges, including fuel flowage fees, for the use and/or occupancy of property owned, leased, subleased, or otherwise controlled or operated by the Authority or for services rendered in the operation thereof.
- (7) Make all reasonable rules, regulations, and policies as it may from time to time deem to be necessary, beneficial, or helpful for the proper maintenance, use, occupancy, operation, and/or control of any airport or airport facility owned, leased, subleased, or controlled by the Authority; provide and enforce civil and criminal penalties for the violation of such rules, regulations, and/or policies; provided that such rules, regulations, policies, and penalties are not in conflict with any applicable law, rule, or regulation of the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the rules and regulations of the Federal Aviation Administration.
- (8) Sell, exchange, lease, sublease, or otherwise dispose of, any property, real or personal, belonging to the Authority, or grant easements over, through,

under, or across any real property belonging to the Authority, or donate to another governmental entity within this State or to the United States any surplus, obsolete, or unused personal property; provided that 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.

- (9) Purchase such insurance and insurance coverages as the Authority may from time to time deem to be necessary, beneficial, or helpful.
- (10) Maintain and/or operate any airport or landing field jointly with any county or counties adjoining either the County of Buncombe or the County of Henderson or both of them and/or with other aviation/airport authority or authorities operating under authorization from one or more adjoining counties and/or any municipality located therein.
- (11) Deposit, invest, and/or reinvest any of its funds as provided by the Local Government Finance Act for the deposit or investment of unit funds.
- (12) Issue revenue bonds and/or refunding bonds pursuant to the State and Local Government Revenue Bond Act.
- (13) Purchase any of its outstanding bonds or notes.
- (14) Operate, own, lease, sublease, control, regulate, and/or grant to others the right to operate on any airport premises restaurants, snack bars and vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barber shops, automobile parking and storage facilities, automobile service stations, garage service facilities, motion picture shows, personal service establishments, and/or all other types of facilities as may be directly or indirectly related to the maintenance and/or furnishing of the public commercial and/or general aviation airport facilities.
- (15) Accept 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 Federal Aviation Administration, or from any private agency, entity, or individual, upon such terms and conditions as may be imposed, and enter into contracts and grants agreements with the Federal Aviation Administration, or any successor or successors thereof, 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 equipment of any existing or future airport facilities.
- (16) Employ and fix the compensation of an airport director, who shall serve at the pleasure of the Authority and who shall manage the affairs of the Authority under the supervision of the Authority.
- (17) Employ, or provide for the employment of, such employees, including law enforcement officers, as the Authority may from time to time deem to be necessary, beneficial, or helpful. All such employees shall be employees at will, and no such employee shall have a defined or definite term of employment or an expectation of continued employment or an expectation of continued indefinite employment.
- (18) Employ, hire, retain, or contract with, such accountants, auditors, agents, engineers, attorneys, and other persons and entities whose services may from time to time be deemed by the Authority to be necessary, beneficial, or helpful.
- (19) Make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings, and/or estimates of cost and revenues as the Authority may from time to time deem necessary, beneficial, or helpful, and prepare and adopt a comprehensive plan or plans for the location, construction, improvement, and development of any project.
- (20) Undertake and/or enter into leases, subleases, agreements, easements, and contracts, and/or grant concessions, with respect to alternative energy,

energy conservation, energy reduction, and/or renewable energy activities, programs, projects, and/or ventures, and the administration, construction, development, enlargement, equipment, improvement, maintenance, management, operation, regulation, and/or repair thereof.

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

SECTION 1.6.(b) The Authority has the same exemptions with respect to payment of taxes and license fees as provided for municipal corporations by the laws of the State of North Carolina.

SECTION 1.7.(a) The Authority is hereby authorized and empowered to acquire from the Counties of Buncombe and Henderson and the City of Asheville, by agreement therewith, and such Counties and City may grant and convey, either by gift or for such consideration as allowed by federal law and as it may be deemed wise, any real and/or personal property which it now owns or may hereafter acquire, and which may be necessary, beneficial, or helpful for the construction, development, operation, and/or maintenance of any airport or facilities of same located in the Counties of Buncombe or Henderson. If the airport ceases to operate or if the Authority is dissolved, any applicable real property of the Counties of Buncombe or Henderson or the City of Asheville conveyed or transferred to the Authority under this act shall revert to the grantor.

SECTION 1.7.(b) The County of Buncombe, the County of Henderson, and the City of Asheville shall transfer to the Authority within 90 days after enactment of this act all its right, title, and interest to the property known as the Asheville Regional Airport, except if approval of a federal agency is required, then within 90 days of that approval.

SECTION 1.7.(c) Private property needed by the Authority for any airport, landing field, or facility may be acquired by the Authority by gift, devise, or private purchase. Aviation easements needed by the Authority for any airport, landing field, or facility may likewise be acquired by gift, devise, or private purchase. Unless the power of eminent domain is required by federal law or federal regulation, Chapter 40A of the General Statutes does not apply to the Authority, and it may not exercise the power of eminent domain. If a federal law or federal regulation does require the Authority to have the power to exercise eminent domain, it may only do so for public use for an airport purpose or purposes, and any eminent domain proceeding must be authorized jointly by all of the three appointing authorities. In no case, however, may the power of eminent domain be used for purposes not necessary for the operation of the airport, and more specifically no property may be acquired by eminent domain for such uses as hotels, motels, restaurants, or industrial parks. The power of eminent domain may not be used to acquire any interest in the Ferncliff Industrial Park as it existed on June 1, 2011, except for a proven and present aviation need required by a federal agency.

SECTION 1.7.(d) Any lands acquired, owned, controlled, or occupied by the Authority shall and/or are hereby declared to be acquired, owned, controlled, and occupied for a public purpose.

SECTION 1.7.(e) The Authority is not authorized to levy any tax.

SECTION 1.7.(f) Any claim by Henderson County against the City of Asheville or the current airport authority on account of acquisition of property by either or both of them in Henderson County is extinguished.

SECTION 1.8. The Authority shall make annual reports to the Buncombe County Board of Commissioners, the Asheville City Council, and the Henderson County Board of Commissioners setting forth a summary of its general operations and transactions conducted by it pursuant to this act. The Authority shall be regarded as the corporate instrumentality and agent for Buncombe and Henderson Counties and the City of Asheville for the purpose of developing aviation facilities in the Counties of Buncombe and Henderson, but it shall have no power to pledge the credit of the Counties of Buncombe or Henderson or the City of Asheville, or to impose any obligation upon those counties, or the City of Asheville, except and when such power is expressly granted by statute.

SECTION 1.9. All rights, powers, and authority given to the counties and/or municipalities by the statutes of North Carolina, which may now be in effect, or which may be enacted in the future, relating to the development, operation, maintenance, regulation, and/or control of municipal or other governmental airports and the regulations of aircraft are hereby vested in the Authority.

SECTION 1.10. The Authority is hereby expressly authorized to make and enter into contracts, leases, subleases, conveyances, and other agreements with any political subdivision, agency, department, or instrumentality of this State, any agency, department, or subdivision of the United States, or any other legal entity or person for the purpose of carrying out the provisions of this act.

SECTION 1.11. The powers of the Authority created by this act shall be construed liberally in favor of the Authority. No listing of powers included in this act is intended to be exclusive or restrictive, and the specific mention of, or failure to mention, particular powers in this act shall not be construed as limiting in any way the general powers of the Authority as stated in Section 1.6(a) of this act. It is the intent of this act to grant the Authority full power and right to exercise all authority necessary for the effective operation and conduct of the Authority. It is further intended that the Authority should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the Authority is created. The fact that this act specifically states that the Authority possesses a certain power does not mean that the Authority must exercise such power unless this act specifically so requires.

SECTION 1.12. G.S. 66-58(a) does not apply to the Greater Asheville Regional Airport Authority or a lessee or sublessee of the Greater Asheville Regional Airport Authority.

SECTION 1.13. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

PART II. ASHEVILLE REGIONAL AIRPORT AND WNC AG CENTER PROVISIONS

SECTION 2.1.(a) All the property within Buncombe County owned by the City of Asheville that is part of the Asheville Regional Airport is not subject to regulation by that city under Article 19 (Planning and Regulation of Development) of Chapter 160A of the General Statutes and instead shall be subject to ordinances of Buncombe County under Article 18 (Planning and Regulation of Development) of Chapter 153A of the General Statutes. No property in Buncombe County that may hereinafter be acquired by the City of Asheville or by the Greater Asheville Regional Airport Authority to be part of the Asheville Regional Airport shall be subject to ordinances under Article 19 of Chapter 160A of the General Statutes but instead shall be subject to ordinances of Buncombe County under Article 18 (Planning and Regulation of Development) of Chapter 153A of the General Statutes.

SECTION 2.1.(b) This section is effective on the effective date of an ordinance adopted by Buncombe County to make the area under subsection (a) of this section subject to the zoning ordinance of that county.

SECTION 2.2.(a) The City of Asheville shall convey to the State of North Carolina by warranty or quitclaim deed all its right, title, and interest to the "City of Asheville Parcel" below, which is part of the Western North Carolina Agricultural Center, and the corporate limits of the City of Asheville are reduced by removing all three parcels below from the corporate limits:

NORTH PARCEL

BEGINNING at a concrete monument located at the intersection of the West boundary of right-of-way for Interstate Highway I-26 and the South Boundary of right-of-way for Fanning Bridge Road and running South 75 degrees 50 minutes West 454.65 feet along the South Boundary of right-of-way for Fanning Bridge Road to a concrete monument; thence running parallel to, and 50 feet from, the centerline of Fanning Bridge Road the following bearings and distances: South 72 degrees 23 minutes West 456.00 feet; South 71 degrees 40 minutes West 100.00 feet; South 48 degrees 51 minutes West 51.00 feet; South 41 degrees 47 minutes West 65.00 feet; South 31 degrees 44 minutes West 50.00 feet; South 1 degree 42 minutes West 50.00 feet; South 2 degrees 29 minutes East 650.56 feet to a stake; thence leaving the right-of-way, North 84 degrees 52 minutes 12 seconds East 1301.80 feet to a stake in the West edge of Interstate Highway I-26 right-of-way; thence along the West edge of Interstate Highway I-26 right-of-way North 13 degrees 54 minutes 45 seconds West 1018.70 feet to the point of BEGINNING, and containing 25.10 acres, more or less.

CITY OF ASHEVILLE PARCEL

BEGINNING at the southwest corner of the property of the State of North Carolina as described in Deed Book 917, Page 605 said point being an iron pipe in the east right-of-way

of Fanning Bridge Road (SR 3526); thence N84°19'30"E 1251.01 feet to a concrete monument on the right-of-way of Interstate 26; then with the right-of-way of Interstate 26 the following four calls: S14°24'34"E 355.92 feet to a concrete monument, S11°38'02"W 669.75 feet to a concrete monument, S14°15'41"E 398.94 feet to a concrete monument, and S51°17'26"E 183.08 feet to an iron pipe; then leaving the right-of-way of Interstate 26 and running with the west line of the property now or formerly owned by Sybil Lance et al S03°49'11"W 347.22 feet to an iron pipe; then S86°52'48"W 1020.44 feet to an iron pipe; then N03°07'12"W 400.00 feet to an iron pipe; then S86°52'48"W 300.00 feet; then N03°07'12"W 1399.12 feet with the east right-of-way of Fanning Bridge Road (SR 3526) to the beginning containing 50.00 acres. Being a portion of the property conveyed to the City of Asheville by City Loans Incorporated by deed dated April 4, 1958, and recorded in the Henderson County Register of Deeds office in Deed book 366, Page 607.

SOUTH PARCEL

BEGINNING at an iron pin which is located South 21 degrees 36 minutes 41 seconds West 612.00 feet (Ground) and South 23 degrees 38 minutes 51 seconds West 622.53 feet (Grid) from NCGS Monument "Rest" (NC Grid Coordinates(NAD 83)) N191587.805m and E289213.047m, and runs thence from said Beginning point on a curve to the right having a radius of 663.94 feet, a chord bearing of South 59 degrees 23 minutes 33 seconds West 413.45 feet and an arc length of 420.44 feet to an iron pin; thence South 79 degrees 32 minutes 36 seconds West 342.65 feet to an iron pin; thence North 64 degrees 21 minutes 42 seconds West, crossing an iron pin at 52 feet, a total distance of 182.47 feet to a right-of-way monument, said right-of-way monument being located North 30 degrees 44 minutes 38 seconds West 216.86 feet from a County Line monument; thence North 02 degrees 48 minutes 04 seconds West, crossing an iron pin at 182.64 feet, a total distance of 445.09 feet to an iron pin thence North 25 degrees 31 minutes 19 seconds West 89.43 feet to an iron pin located in the eastern margin of the 100' right of way of Airport Road; thence with the eastern margin of said right-of-way, North 03 degrees 07 minutes 12 seconds West 63.53 feet to an iron pin; thence North 86 degrees 52 minutes 48 seconds East 300 feet to an iron pin; thence South 86 degrees 52 minutes 48 seconds East 981.81 feet to the point and place of Beginning, containing 8.31 acres, more or less, and being shown on a survey dated November 17, 1995, last revised December 1, 1995. Entitled "Survey of Addition to WNC Agricultural Center," prepared by Hutchison-Biggs & Associates, Inc. (B95-885).

SECTION 2.2.(b) The property described in subsection (a) of this section, and any other property contiguous to that property and which is acquired by the State of North Carolina to be part of the Western North Carolina Agricultural Center, is not subject to regulation by the City of Asheville under Article 19 (Planning and Regulation of Development) of Chapter 160A of the General Statutes and instead shall be subject to ordinances of Buncombe County under Article 18 (Planning and Regulation of Development) of Chapter 153A of the General Statutes. This subsection is effective on the effective date of an ordinance adopted by Buncombe County to make the area under subsection (a) of this section subject to the zoning ordinance of that county.

PART III. EFFECTIVE DATE

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives