

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-358
SENATE BILL 380**

**AN ACT TO CREATE THE CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT
COMMISSION UNDER THE CITY OF CHARLOTTE.**

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Charlotte Douglas International Airport Commission Act."

SECTION 2. S.L. 2013-272 is repealed.

SECTION 3. Chapter 5 of the Charter of the City of Charlotte, being S.L. 2000-26, is amended by adding a new Article to read:

"**ARTICLE III. CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT COMMISSION.**

"Section 5.51. **Charlotte Douglas International Airport Commission.**

There is created the Charlotte Douglas International Airport Commission, which shall be an agency of the City, having the powers, authority, and jurisdiction set out in this Article and such other and additional powers and authority as shall be conferred upon it by future acts of the General Assembly.

"Section 5.52. **Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Article to the defined words and phrases and their cognates:

- (1) "Airport" means Charlotte Douglas International Airport in Mecklenburg County.
- (2) "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, automobile 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 Commission in connection therewith.
- (3) "Airport Property" means all the real property and improvements thereto designated as airport property on the Airport Layout Plan or Airport Development Plan of the Airport conditionally approved by the FAA on February 13, 2013.
- (4) "Appointing Authorities" means the entities described in Section 5.24 of this Charter who are empowered to appoint members of the Commission and referred to collectively as "Appointing Authorities" and individually as "Appointing Authority."
- (5) "Commission" means the Charlotte Douglas International Airport Commission created by this Article or, if such Commission is abolished or otherwise ceases to exist, the authority, board, body, commission, or other entity succeeding to the principal functions thereof.
- (6) "FAA" means the Federal Aviation Administration or any successor agency.
- (7) "Member" means an individual who is appointed to the Commission, as provided by this Article.



- (8) "Servants" means accountants, auditors, agents, contractors, design professionals, attorneys, and other persons and entities whose services may from time to time be deemed by the Commission to be necessary, beneficial, or helpful.

"Section 5.53. Membership; Terms.

(a) The Commission shall consist of 13 members appointed as follows:

- (1) Three registered voters of the City of Charlotte appointed by the Mayor, at least one of whom shall be a resident of the west side of the City of Charlotte.
- (2) Four registered voters of the City of Charlotte appointed by the Council, at least one of whom shall be a resident of the west side of the City of Charlotte.
- (3) One registered voter of Mecklenburg County appointed by the Mecklenburg County Board of Commissioners.
- (4) One registered voter of Cabarrus County appointed by the Cabarrus County Board of Commissioners.
- (5) One registered voter of Gaston County appointed by the Gaston County Board of Commissioners.
- (6) One registered voter of Iredell County appointed by the Iredell County Board of Commissioners.
- (7) One registered voter of Lincoln County appointed by the Lincoln County Board of Commissioners.
- (8) One registered voter of Union County appointed by the Union County Board of Commissioners.

(b) In order to effectuate a seamless start-up of the Commission, and to give the Appointing Authorities time to consider candidates for and to appoint members as provided herein, the initial members of the Commission from the time this act becomes law shall be the members of the Airport Advisory Committee of the City of Charlotte who shall serve only until seven members shall have been appointed by the Appointing Authorities and qualified by taking their oath of office. The powers of the Airport Advisory Committee serving as initial members shall be limited to ministerial acts, and no employment or management contracts shall be awarded or entered into by the initial members, and any such contracts as the initial members shall award or enter into shall not be effective or binding on the members selected by the Appointing Authorities; provided, however, the initial members may take such actions as are appropriate in accordance with Sections 5.59(c)(5) and 5.62 of this Charter. The Appointing Authorities shall appoint initial members no later than October 1, 2013. Members, when practical, shall have experience in aviation, logistics, construction and/or facilities management, law, accounting, and/or finance.

(c) No person may be appointed as a member or serve during continuance in office on the Commission who:

- (1) Is employed by a servant of the Commission as defined in Section 5.52 of this Charter;
- (2) Is a tenant or employee of a tenant of an airport owned, operated, or controlled by the Commission, or other commercial user or employee of a commercial user of any airport operated by the Commission; or
- (3) Has been convicted of a felony or a crime of moral turpitude.

(d) Members shall serve four-year terms and may serve up to a total of two successive four-year terms. A member who has reached this limit may not be reappointed to the Commission 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. In order to ensure that the terms of all members of the Commission do not expire at the same time, the initial terms of the members of the Commission, appointed by the Counties of Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union, shall be for two years. All initial four-year terms expire December 31, 2017, and all initial two-year terms expire December 31, 2015.

(e) Any vacancy occurring among the membership of the Commission shall be filled within 60 days after notice thereof by the appointment of a successor by the Appointing

Authority of the previous member. Such successor member shall serve for the remainder of the unexpired term.

(f) Members 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 Commission.

(g) Any member may be suspended or removed from office by that member's Appointing Authority or a majority vote of the other members 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 Commission, or for conduct exposing the Commission to liability for damages.

(h) Except for malfeasance, members shall not be personally liable, in any manner, for their acts or omissions as members.

(i) Each member may continue to serve until a successor has been duly appointed and qualified, but not for more than 60 days beyond the end of the term.

"Section 5.54. Meetings; Reimbursement; Procedures.

(a) The organization and business of the Commission shall be conducted as provided in this Article.

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

(c) Each member, including the chair, shall have one vote. A majority of the members in office shall constitute a quorum, and, unless otherwise provided in this act, all actions of the Commission shall be determined by a majority vote of the members present and voting in a duly called meeting at which a quorum is present.

(d) The Commission 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 six members of the Commission; provided, a monthly meeting need not be held if it is determined by the chair or seven members that such meeting is not required.

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

(f) All meetings and closed sessions of the Commission 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 5.55. Officers and Funds.

(a) The members of the Commission shall elect annually from their membership a chair, vice-chair, and shall elect a secretary and such other officers as they deem appropriate and otherwise provide for the efficient administration of the Commission's affairs; provided, however, the Commission may provide by resolution that the finance officer of the City shall by virtue of that office be also the finance officer of the Commission, and in such case shall serve as such finance officer without additional compensation. All funds of the Commission shall be kept by its treasurer in a separate bank account or accounts from other funds of the City and shall be paid out only in accordance with procedures established by such Commission. Quarterly operating statements of the Commission and an annual audited statement shall be presented to the Council. The Commission shall be deemed a "special district," as defined in G.S. 159-7, for purposes of the Local Government Budget and Fiscal Control Act and shall budget and administer its fiscal affairs according to the provisions of that act applicable to special districts.

(b) The fiscal year of the Commission shall begin on July 1 and end on June 30. On or before May 15 of each year, the Commission shall prepare and adopt a proposed budget for the next ensuing fiscal year and deliver copies of such proposed budget to the Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union County Boards of Commissioners and the Charlotte City Council. In order to effectuate a seamless start-up of operation of the airport by the Commission, the initial budget of the Commission shall be the budget established by the Council for the Airport for the period July 1, 2013, through June 30, 2014, until the initial budget shall be revised by the Commission. The financial affairs of the Commission shall be governed by the Local Government Finance Act. The Commission shall have full control of the budget of the Airport.

"Section 5.56. Powers and Duties.

(a) The Commission shall operate the airport in a proper, efficient, economical, and business-like manner, to the end that it may effectively serve the public needs for which it was established at the least cost and expense to the City. To that end, the Commission 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 Mecklenburg County only.
- (3) Exercise on behalf of the City within Mecklenburg County all the powers that the City has concerning airports under Chapter 63 of the General Statutes and any other provision of general law, this charter, or other provision of local act applicable to the City, except as limited by this Article.
- (4) Operate the airport.
- (5) 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 Mecklenburg County; and for any of such purposes, purchase, acquire, own, develop, hold, lease, sublease, and operate real and/or personal property comprising such airports.
- (6) Purchase real and personal property.
- (7) Sue and be sued in the name of the Commission.
- (8) In addition to the powers granted by subdivisions (4) and (5) of this subsection, (i) upon the consent of the governing bodies of such airports, to acquire by purchase or otherwise and to hold lands for the purpose of constructing, maintaining, and/or operating existing airports in Cabarrus, Gaston, Iredell, Lincoln, and Union Counties and (ii) upon the consent and agreement of the Boards of County Commissioners of Cabarrus, Gaston, Iredell, Lincoln, and Union Counties, to acquire land and construct, make improvement, extension, enlargement, or equipping of future airport facilities in such counties.
- (9) Charge and collect fees, royalties, rents, and/or other charges, including fuel flowage fees, for the use and/or occupancy by persons of the airports and other property owned, leased, subleased, or controlled by the Commission or for services rendered in the operation thereof.
- (10) Make all reasonable rules and 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 Commission and 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, rules, 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 FAA or the Transportation Security Administration.
- (11) With the approval of the City, sell, exchange, lease, sublease, or otherwise dispose of any property, real or personal, belonging to the Commission and not needed by the Commission to operate any airport owned or operated by it or to generate revenues to pay debt obligations of the Commission, or grant easements over, through, under, or across any real property belonging to the Commission, or donate to another governmental entity within North Carolina or to the United States any surplus, obsolete, or unused personal property; provided 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.
- (12) Purchase such insurance and insurance coverages as the Commission may from time to time deem to be necessary, beneficial, or helpful.
- (13) 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.
- (14) Operate, own, lease, sublease, control, regulate, and/or grant to others the right to operate on any airport premises owned, operated, or controlled by

the Commission, general aviation terminal and fixed-base operations, aircraft deicing equipment and systems, restaurants, snack bars and vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandise 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, activities, and enterprises as may be directly or indirectly related to the maintenance and/or furnishing of public commercial service 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 FAA or from any private agency, entity, or individual, upon such terms and conditions as may be imposed, and enter into contracts and grant agreements with the FAA 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 equipping of any existing or future airport facilities.
- (16) Employ and fix the compensation of an Executive Director, who shall serve at the pleasure of the Commission or pursuant to the terms of an employment contract awarded by the Commission and who shall manage the affairs of the Commission under the supervision of the Commission.
- (17) Employ, or provide for the employment of such employees by the Executive Director, including law enforcement officers, as the Commission may from time to time deem to be necessary, beneficial, or helpful.
- (18) Employ, hire, retain, or contract with such servants whose services may from time to time be deemed by the Commission to be necessary, beneficial, or helpful. In order to effectuate a seamless transfer of the Airport from the ownership and operation by the City of Charlotte to the ownership and operation by the Commission, the Commission will honor and be bound by all existing contracts between the City and such servants as presently are engaged to assist the City with respect to the Airport.

(b) As provided by general law, it shall be the responsibility of the City as governed by its Council for all issuance of revenue bonds and/or refunding revenue bonds pursuant to the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, all issuance of general obligation debt pursuant to the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes, and all purchase of any of its outstanding bonds or notes. The Commission shall keep the City Manager and Council promptly apprised of any future need for such actions.

"Section 5.57. Eminent Domain.

The Commission may not exercise any powers of eminent domain. Any eminent domain with respect to acquisition of property for airport purposes shall be exercised by the City.

"Section 5.58. Exemptions; Taxes.

The Commission has the same exemptions with respect to payment of taxes and license fees as provided for the City by the laws of this State. The Commission is not authorized to levy any tax.

"Section 5.59. Funds and Property.

(a) The Commission shall have control, on behalf of the City, of the Airport Property, Airport Facilities, and all other property held or owned by the City of Charlotte with respect to the Airport, real or personal, tangible or intangible, and includes all cash and cash equivalents and checking, investment, and demand deposit bank accounts held by the City pertaining to or generated from revenues of the Airport, including, without limiting the generality hereof, amounts on deposit in or with respect to the Discretionary Fund, the Cannon Fund, the Revenue Fund, the Operating Fund, the Bond Funds, the Debt Service Funds, the Construction Funds, the Capital Projects Funds, Passenger Facility Charges, Contract Facility Charges, and all other funds and accounts of the City with respect to the Airport. This Article does not impair the City's obligations to servants and employees of the Commission and bondholders of the City's

General Airport Revenue Bonds, and including, without limiting the generality hereof, the obligations under the Revenue Bond Order adopted November 18, 1985, and all Series Resolutions issued under the Bond Order, the Special Facility Bond Order adopted May 11, 1987, and all Series Resolutions adopted under the Special Facility Bond Order, and the Taxable Special Facility Revenue Bonds (Consolidated Car Rental Facilities Project) Series 2011 General Trust Indenture and the Series Indenture, Number 1, both dated November 1, 2011, and all agreements and understandings with respect to trustee(s) or paying agent(s) of the City's airport revenue bonds, letters of credit, or other credit facilities of the City with respect to airport revenue bonds, and all leases, licenses, options to purchase, and other encumbrances on the Airport Property and Airport Facilities, whether or not those encumbrances are recorded. Any such payments shall be made by the City through the Commission under the terms of such contracts first with funds under the jurisdiction of the Commission. This act does not affect the title of any property. If the property was titled to the City of Charlotte prior to enactment of this Article, that title remains with the City.

(b) The Commission acts on behalf of the City with respect to all rights, duties, and obligations of the City in any commercial or development agreements pertaining to or related to the Airport Property and Airport Facilities that are in effect at the time of the transfer, and any commercial agreements, development agreements, and other contracts of the City pertaining to or related to the Airport Property and Airport Facilities that are in effect on enactment of this Article remain in effect.

(c) The Commission, on behalf of the City, shall:

- (1) Honor and be bound by all pending or executory land or real property purchase contracts by the City with respect to property and lands to be acquired for and in connection with the Airport.
- (2) Honor and be bound by all existing rules and regulations of the Aviation Department of the City of Charlotte with respect to the Airport, including the Airport Security Plan, until such rules and regulations shall be amended by the Commission in accordance with the provisions of this Article.
- (3) Honor and be bound by all existing contracts of the City with third-party concessionaires and management contractors with respect to the Airport.
- (4) Honor and be bound by all existing contracts and grant agreements of the City with respect to the Airport.
- (5) Be deemed as a matter of law to have appointed as its initial Executive Director the Aviation Director of the City of Charlotte as of February 14, 2013, with initial compensation and benefits of the initial Executive Director being the same compensation and benefits as were being received from the City of Charlotte on February 14, 2013, and the initial Executive Director shall be entitled as a matter of law to the continuation of the rights and benefits extended to him or her under the existing retirement system of the City.
- (6) Be deemed as a matter of law to have adopted initially the employment and human resources policies of the Commission, such policies of the City as they applied to employees of the Airport on the effective date of this Article, and the Commission shall be deemed to have adopted the current employee handbook of the City applicable to the Airport until the Commission adopts different policies or a different employee handbook.

"Section 5.60. Assistance by City.

Upon the request of the Executive Director of the Commission, the City shall continue to provide such services to the Commission as it currently provides to the Airport Department and shall receive as compensation therefor from the Commission such amount as is appropriate for such services as provided by OMB Circular A-87 until the Commission shall direct the City to terminate such services.

"Section 5.61. Employees.

(a) The employees assigned to the City's Aviation Department or under the direction of the Aviation Director as of the date of enactment of this Article are administratively assigned to the Commission and shall be employed in accordance with this Article as provided by Section 5.56 of this Charter and compensated by the Commission (the "Airport Employees").

(b) Following the time this bill becomes law, the Airport Employees shall continue to receive, until provided otherwise by the Commission through the adoption of new personnel

policies as provided by this Article, all employment benefits currently available to the Airport Employees, including, but not limited to, health care benefits, retirement benefits, disability insurance, life insurance, and accrued time off or leave, and the Commission shall promptly reimburse the City the costs of providing such benefits.

"Section 5.61A. Annual Reports.

The Commission shall make annual reports to the Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, and Union County Boards of Commissioners and the Council setting forth a summary of its general operations and transactions conducted by it pursuant to this Article.

"Section 5.62. Statutory Construction.

The powers of the Commission created by this Article shall be construed liberally in favor of the Commission. No listing of powers included in this Article 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 Commission as stated in Section 5.56 of this Charter. It is the intent of this Article to grant the Commission full power and right to exercise all authority necessary for the effective operation and conduct of the Commission. It is further intended that the Commission should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the Commission is created. The fact that this Article specifically states that the Commission possesses a certain power does not mean that the Commission must exercise such power unless this Article specifically so requires.

"Section 5.63. Initial Guidance.

In its initial decisions, the Commission shall consider the consultant recommendations made to the City in 2013 concerning governance of the Airport."

SECTION 4.(a) There is created as an agency of the City of Charlotte the Charlotte Douglas International Airport Oversight Committee (Committee), which shall consist of five members appointed as follows:

- (1) One by the Governor.
- (2) One by the President Pro Tempore of the Senate.
- (3) One by the Speaker of the House of Representatives.
- (4) One by the Mayor of the City of Charlotte.
- (5) One by the City Council of the City of Charlotte.

SECTION 4.(b) The Committee shall monitor the actions of the Charlotte Douglas International Airport Commission (Commission) established by this act and make regular reports and recommendations, if needed (including, but not limited to, an interim report in June of 2014 and a final report in June of 2015) to the Mayor and City Council on the following points:

- (1) Whether the Charlotte Douglas International Airport (Airport) continues to be one of the best performing and lowest cost major hub airports.
- (2) Whether that Airport finances are completely separate from those of the State or of any local government.
- (3) Whether the Airport contracts and pays for only the services it needs and uses, including services from the State or from any local government.
- (4) Whether the Airport continues to have a compensation system that enables it to attract and retain top talent.
- (5) Whether the operations of the Commission comply with the provisions of this act.

SECTION 4.(c) The initial meeting of the Committee shall be called by the mayoral appointee or by any three members. A quorum is three members. The Committee may adopt other rules of procedure that do not conflict with State law.

SECTION 4.(d) This section expires and the Committee terminates July 1, 2015.

SECTION 5. 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.

SECTION 6. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 26th day of July, 2013.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Thom Tillis
Speaker of the House of Representatives