

## CHAPTER 2011-263

### Committee Substitute for House Bill No. 1345

An act relating to the Charlotte County Airport Authority, Charlotte County; amending chapter 98-508, Laws of Florida, as amended; revising various provisions of the Charlotte County Airport Authority Act; revising definitions; expanding the purpose of the authority; revising provisions relating to members, officers, compensation, and meetings; revising powers of the authority; revising requirements for the expenditure of funds; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 2 through 19 of section 2 of chapter 98-508, Law of Florida, as amended by chapter 2004-405, Laws of Florida, are amended to read:

Section 2. Definitions.—As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) “Authority” means the authority created by this act or, if such authority shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given by this act to the authority shall be given by law.

(2) “Area” means the territorial limits within which the Charlotte County Airport Authority shall operate, the boundaries of which shall be coextensive with Charlotte County.

(3) “Project” means and includes the acquisition of lands or any interest therein or improvements thereon, personal property of any nature or description, intangible personal property, or buildings, structures, or other improvements or facilities or any portion thereof or any interest therein, for the development, expansion, and promotion of the airports, Charlotte County Airport, and commerce parks, facilities, or real estate owned, operated, or managed by the Charlotte County Airport Authority Park and the construction or acquisition of buildings, plants, industrial parks, or areas and any and all facilities relating to the development of industry, commerce, recreation, agriculture, or the natural resources of the Charlotte County Airport Authority for the purpose of selling, leasing, or renting such buildings, parks, areas, or facilities owned by the Charlotte County Airport Authority to public or private corporations, persons, or firms.

(4) “Cost of project” embraces the cost of construction, the cost of all lands, properties, easements, rights, and franchises acquired, the cost of machinery and equipment, financing charges, interest prior to and during construction, cost of engineering, architectural, and legal expense, and plans

and specifications and other expenses necessary or incident to determining the feasibility or practicability of the project, administrative expenses, and such other expenses as may be necessary or incident to the financing herein authorized for the construction of any project and placing the same in operation.

(5) “Airport facilities” means airport facilities of all kinds, including, but not limited to, landing fields; runways; taxiways; hangars; shops; restaurants and catering facilities; terminals; buildings; parking facilities and all other facilities necessary or desirable for the landing, taking off, operating, servicing, repairing, and parking of aircraft; fuel farms; self-service fueling areas; facilities necessary for the unloading and handling of passengers, mail, express, and freight; and facilities for the accommodation, convenience, and comfort of passengers and pilots, together with related transportation facilities; and all necessary appurtenances, machinery, and equipment, and all lands, properties, rights, easements, and franchises relating thereto and considered necessary or convenient by the authority in connection therewith.

Section 3. Authority, creation and purpose.—For the purpose of performing such acts as shall be necessary for the management, operation, maintenance, planning, and development of the airports, commerce parks, facilities, or real estate owned, operated, or managed by the Charlotte County Airport Authority, there is hereby created and established, as an agency of Charlotte County, a public body corporate to be known as the “Charlotte County Airport Authority,” hereinafter referred to as “authority” and the exercise by the authority of any of the powers conferred upon it by this act shall be deemed and held to be an essential and proper function of the county. The Charlotte County Airport Authority is an independent special district pursuant to chapter 189, Florida Statutes.

Section 4. Membership, appointment term of office.—The authority shall be composed of five members, one from each Charlotte County commission district elected as prescribed in this section. At each general election, the members of the authority shall be elected for a term of 4 years, and shall take office immediately upon election. Election of members of the authority shall be as prescribed by the general election laws of Florida.

Section 5. Vacancies.—Each member of the authority shall hold office until his or her successor has been appointed and has qualified. A vacancy occurring during a term of an appointed or elected member shall be filled only for the balance of the unexpired term, such appointments to be made by the Governor.

Section 6. Chairperson, vice chairperson, Chair, vice chair, secretary-treasurer, and assistant secretary-treasurer.—The authority shall elect from its membership a chairperson and vice chairperson ~~chair and vice chair~~ to serve in the absence or disqualification of the chairperson ~~chair~~, both to hold office at the will of the authority. The authority shall further elect from its membership a secretary-treasurer for the authority and assistant secretary-

treasurer to serve in the absence or disqualification of the secretary-treasurer.

Section 7. Qualification of members.—Upon the effective date of the appointment or election of each member of the authority, or as soon thereafter as practicable, each member shall enter upon his or her duties, but before doing so, such member shall take an oath to faithfully perform the duties of office ~~and file the same with the Clerk of the Circuit Court,~~ and shall execute a public official bond in the penal sum of \$100,000 payable to the authority and conditioned upon the faithful performance of the duties of his or her office, ~~which bond shall be approved by the Clerk of the Circuit Court.~~ The cost of the premium on all such bonds shall be paid by the authority and shall be included in its cost of operation.

Section 8. Compensation; travel expenses.—The maximum amount of ~~remuneration~~ ~~compensation~~ which may be paid to a member of the authority annually is \$7,500. The members of the authority by majority vote shall set their annual salary, which may be no more than the maximum set forth above. In addition, the authority shall set by resolution per diem for expenses incurred by authority members and staff to be reimbursed pursuant to section 166.021(10), Florida Statutes, or in accordance with section 112.061(14), Florida Statutes.

Section 9. Quorum; transaction of business.—A majority of the membership shall constitute a quorum for all purposes, and no vacancy in the authority shall impair the right of a quorum of the authority to exercise all of the rights and perform all of the duties of the authority. The authority may meet at such times and places designated by it but shall hold regular meetings as necessary and generally ~~at least once each month unless canceled by emergency, or majority vote, or by consensus of the authority members.~~ Emergency meetings may be called upon the call of the chair or any three members of the authority.

Section 10. Powers.—The authority shall have these specific powers, in addition to other powers otherwise conferred:

- (1) To sue and be sued, implead and be impleaded, complain, and defend in all courts.
- (2) To adopt, use, and alter at will, a corporate seal.
- (3) To select and appoint agents and employees, including engineers, architects, builders, and attorneys, and to fix their compensation.
- (4) To borrow money, incur debt, and issue bonds, notes (including bond anticipation notes), certificates, or any other instruments of indebtedness for any lawful purpose that promotes, enhances, or otherwise furthers the purposes of the authority, including, but not limited to, financing the cost of any project, capitalizing interest, funding any reserves, refunding or refinancing any existing indebtedness, and paying costs and expenses

associated with such indebtedness. Any such indebtedness may be secured by any revenue source or in any manner as is allowable under applicable law. No general obligation bonds may be issued by the authority unless the Florida Constitution and all other applicable laws regarding the issuance of general obligation bonds are satisfied, including, but not limited to, approval by a majority of the electorate of Charlotte County, which cast votes in a duly held bond referendum. For purposes of this section, the term "bonds" shall include all forms or instruments of indebtedness. The bonds may be issued as serial bonds or as term bonds or both. The authority may issue capital appreciation bonds or variable rate bonds. Any bonds must be authorized by resolution of the governing body of the authority and bear the date or dates; mature at the time or times, not exceeding 40 years after their respective dates; bear interest at the rate or rates; be payable at the time or times; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium or payment and at the place; and be subject to the terms for redemption, including redemption prior to maturity, as the resolution may provide. If any officer whose signature, or a facsimile of whose signature, appears on any bonds ceases to be an officer before the delivery of the bonds, the signature or facsimile is valid and sufficient for all purposes as if he or she had remained in office until the delivery. The bonds may be sold at public or private sale, competitively or negotiated, for such price as the governing body of the authority shall determine. Pending preparation of the definitive bonds, the authority may issue interim certificates, which shall be exchanged for the definitive bonds. The bonds may be secured by resolution, indenture of trust, or trust agreement. In addition, the governing body of the authority may delegate to an officer, official, or agent of the authority, as the governing body of the authority may select, the power to determine the time; manner of sale, public or private, competitive or negotiated; maturities; rate of interest, which may be fixed or may vary at the time and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of the authority. However, the amount and maturity of the bonds and the interest rate of the bonds must be within the limits prescribed by the governing body of the authority and its resolution delegating to an officer, official, or agent the power to authorize the issuance and sale of the bonds. Bonds, notes, or other obligations issued hereunder may be validated as provided in chapter 75, Florida Statutes. The complaint in any action to validate the bonds, notes, or other obligations must be filed only in the Circuit Court for Charlotte County. Section 75.04(2), Florida Statutes, does not apply to a complaint for validation brought by the authority. The bonds of the authority, their transfer, and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind by the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this subsection is not applicable to any tax imposed by chapter 220, Florida Statutes, on interest, income, or profits on debt obligations owned.

(5) To construct, acquire, establish, improve, extend, enlarge, reconstruct, reequip, maintain, repair, and operate any project as herein defined.

(6) To acquire for any project authorized by this act by grant, purchase, gift, devise, condemnation by eminent domain proceedings, exchange or in any other manner, all property, real or personal, or any estate or interest therein, upon such terms and conditions as the authority shall by resolution fix and determine. The right of eminent domain herein conferred shall be exercised by the authority in the manner provided by law.

(7) To enter into joint arrangements with other transportation lines, or any common carrier, if the authority shall deem it advantageous to do so.

(8) To make and enter into all contracts and agreements and to do and perform all acts and deeds necessary and incidental to the performance of its duties and the exercise of its powers; to make and execute leases or agreements for the use and occupation of the property and projects under its control on such terms, conditions, and period of time as the authority may determine, and to sell and dispose of such property and projects as shall no longer be needed for the uses and purposes of the authority on such terms and conditions as shall be prescribed by resolution of the authority.

(9) To the extent permitted by law, to fix, regulate, and collect rates and charges for the services and facilities furnished by any project under its control, to establish, limit, and control the use of any project as may be deemed necessary to ensure the proper operation of the project; to impose sanctions to promote and enforce compliance with any rule or regulation which the authority may adopt in the regulation of the projects under its control.

(10) To fix the rates of warehousing, storage, and terminal charges for the use of the airport facilities of any airports, commerce parks, facilities, or real estate under authority control ~~the Charlotte County Airport.~~

(11) To fix the rates and collect those rents on the land and buildings owned by the authority in accordance with Federal Aviation Administration ~~regulations of the Federal Aviation Administration.~~

(12) To solicit all business and do all things necessary or advisable to promote commerce and increase activity of any airports, commerce parks, facilities, or real estate under authority control ~~at the Charlotte County Airport.~~

(13) To receive and accept from any federal or state agency, grants for, or in aid of, the construction, improvement, or operation of any project and to receive and accept contributions from any source of either money, property, labor, or other things of value.

(14) To make any and all applications required by the treasury department and other departments or agencies of the United States government as a condition precedent to the establishment within the county of a free port,

foreign trade zone, or area for the reception from foreign countries of articles of commerce and to expedite and encourage foreign commerce, and the handling, processing, and delivery thereof into foreign commerce free from the payment of custom duties and to enter into any agreements required by such departments or agencies in connection therewith and to make like applications and agreements with respect to the establishment within said county of one or more bonded warehouses.

(15) To enter into any contract with the State of Florida, the government of the United States, or any agency of said governments which may be necessary in order to produce assistance, appropriations, and aid for the construction, enlargement, or improvement of any airports, commerce parks, facilities, or real estate under authority control ~~the Charlotte County Airport.~~

(16) To make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings, and estimates of cost and revenues as it may deem necessary and may prepare and adopt a comprehensive plan or plans, for the location, construction, improvement, and development of any project.

(17) To grant nonexclusive franchise to persons, firms, or corporations for the operation of aeronautical and nonaeronautical leases and other concessions in, on, and in connection with, any project owned and operated by the authority. In granting such franchise, it shall be the duty of the authority to investigate and consider the qualifications and ability of the lessee or concessionaires to provide or perform the contemplated services for the public using the facilities and the revenues which will be derived therefrom by the authority and to exercise sound prudent business judgment on behalf of the authority with respect thereto, calling for bids when practicable and when the interests of the public will best be served by such action.

(18) To enter into contracts with utility companies or others for the supplying by said utility companies or others of water, sewer, electricity, and/or telephone service to or in connection with any project or to own, lease, construct, and maintain any or all utilities, including the supplying of gas, water, electricity, sewer, telephone, or other services reasonably related to such utilities.

(19) To pledge by resolution or contract the revenues arising from the operation of any project or projects owned and operated by the authority to the payment of the cost of operation, maintenance, repair, improvement, extension, and/or enlargement of the project or projects from the operation of which such revenues are received and for the payment of principal and interest on bonds issued in connection with any such project or projects constructed or acquired by the authority under the provisions of this act. In any such case the authority may adopt separate budgets for the operation of such project or projects. In every such case such revenues shall be expended exclusively for the payment of the costs of operation, maintenance, repair, improvement, extension, and enlargement of the project or projects from the operation of which such revenues arise, for the performance of the authority's

contracts in connection with such project or projects, and for the payment of principal and interest requirements of any bond issued in connection with the project or projects. Any surplus of such funds remaining on hand at the end of any year shall be carried forward and may be expended in the succeeding year for the payment of the costs of operation of such project or projects or for the repair, , and/or extension thereof as the authority may determine, unless such surplus has been pledged for the payment of principal and interest on bonds, as authorized hereunder, in which event any such surplus shall be applied in accordance with the resolution pledging same.

(20) To provide for the manual execution of any instrument on behalf of the authority by the signature of the chairperson or vice chairperson of the authority and attested by the secretary-treasurer or, in his or her absence, by the assistant secretary-treasurer or, if delegated by the members to do so, the executive director or any other authority personnel to whom authority has been delegated, or by their facsimile signature in accordance with the Uniform Facsimile Signature of Public Officials Act.

~~(21)~~(20) To do all other acts and things necessary or proper in the exercise of the powers herein granted.

Section 11. Power to levy taxes.—

(1)(a) It shall be the duty of the Board of County Commissioners of Charlotte County to levy an annual tax on all taxable real and personal property in such county in an amount to be fixed by said authority and certified to said board, sufficient to meet the sinking fund requirement for the payment of the interest and principal on any general obligation bonds issued by the authority as the same shall become due, which amount, however, shall not exceed .75 mill. This levy shall be in addition to the annual levy hereinafter specified for development and authority purposes.

(2)(b) For the payment of the principal of the interest on any general obligation bonds of the authority issued under the provisions of this act, the Board of County Commissioners of Charlotte County shall levy annually in the manner hereinafter provided a tax upon all taxable real and personal property within the county, subject to the limitations prescribed above, sufficient to pay such principal and interest as the same respectively become due and payable and the proceeds of all such taxes shall when collected and received by the authority be paid into a special fund and used for no other purpose than the payment of such principal and interest; however, there may be pledged to the payment of such principal and interest the surplus of the revenues of the project or projects, after payment of the costs of operation, maintenance, and repair thereof.

(3)(e) The levy, collection, and expenditure of such taxes are hereby declared to be for a lawful county purpose.

(4)(d) The tax collector of Charlotte County shall, as and when collected, remit all moneys collected under the taxes hereby authorized to the authority

which shall deposit the same in a bank or banks qualified as depositories of public funds to be designated by such authority. Certified copies of tax resolutions executed in the name of the authority by its chairperson chair, and attested by its secretary, under its corporate seal, shall immediately be delivered to the Board of County Commissioners of Charlotte County.

(5)(e) The property appraiser, tax collector, and Board of County Commissioners of Charlotte County, shall, when requested by the authority, prepare from their official records and deliver to the authority any and all information that may be requested at any time regarding the tax valuations, levies, assessments, or collections in such county.

Section 12. Bonds eligible for legal investment.—Notwithstanding any provisions of any other law or laws to the contrary, all revenue bonds, general obligation bonds, or any combination of general obligation or revenue bonds, including refunding bonds, issued pursuant to this act shall constitute legal investments for savings banks, banks, unit companies, executors, administrators, trustees, guardians, and other fiduciaries, and for any board, body, agency, or instrumentality of the state or of any county, municipality, or other political subdivision of the state; and shall be eligible as security for deposits of state, county, municipal, and other public funds.

Section 13. Declaration of purpose.—The authority created by this act and the purposes which it is intended to serve are hereby found to be for a county and public purpose.

Section 14. Transfer of city and county projects.—The County of Charlotte or any municipality or any other person, firm, or corporation, is empowered and authorized to sell, lease, lend, grant, or convey to the authority, any real, or personal property, or any interest therein, with or without consideration, which might be used by the authority in the discharge of any of the powers or privileges granted by law. The County of Charlotte or any municipality therein or any other person, firm, or corporation, is further authorized to transfer, assign, and set over to the authority any contract or contracts, leases, mortgages, or other agreements heretofore made or executed by such county, city, or other person, with or without consideration. The County of Charlotte and all incorporated cities therein are expressly authorized to contract with the authority for any purpose authorized by the provision of this act.

Section 15. Taxation of Airport Authority Property.—The authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever upon property belonging to the said authority.

Section 16. Annual audit.—The books and records of the authority shall be audited at least annually, at the expense of the authority, by a certified public accountant. The authority shall furnish a copy of the audit report to the Board of County Commissioners annually, and such audit shall be in lieu of any further audit required by any general or special law.



Section 17. Expenditure of funds.—Moneys of the authority shall be deemed to be trust funds to be held and applied solely for the purposes authorized by law. The authority is authorized to receive moneys in its name, and all moneys drawn from the depository shall be upon checks, or wire transfers, electronic transfers, ACH transfers, or other legal and customary means issued by the authority, and the checks so drawn shall be signed by the chairperson or vice chairperson ~~chair or vice-chair~~ of the authority and attested by the secretary-treasurer or, in his or her absence, by the assistant secretary-treasurer or, if delegated by the members to do so, the executive director or any other authority personnel to whom authority has been delegated, or by their facsimile signature in accordance with the Uniform Facsimile Signature of Public Officials Act, and the seal of the authority shall be affixed or printed thereon.

Section 18. Acquisition or disposal of property.—Contracts may be let by the authority for the construction of any building or other facility, or the acquisition of any real or personal property, or the purchase of any goods, supplies, materials, or services for authority purposes on such terms and subject to such conditions as the authority shall determine to be in the best interests of the authority. The authority is expressly authorized to sell and convey any property, real or personal, belonging to the authority, whenever the authority shall determine that it is in the best interests of the authority to do so in accordance with FAA requirements and guidelines. The authority shall, by resolution, fix and determine rules and regulations relating to advertisement for bids, manner of bidding, and a maximum amount below which same would not be required. The authority may cooperate with the state, county, or any other governmental agency for the purchase of such goods, supplies, or materials on such terms and subject to such conditions as the authority shall determine to be in the best interests of the authority.

Section 19. Termination of authority.—If for any reason, the authority shall terminate, be terminated, or cease operation or existence for any cause or reason, then, upon such termination or cessation, title to all property, real, personal or mixed, tangible or intangible of whatever kind, and wheresoever located, shall immediately vest in the county, which by and through the board, is hereby authorized to exercise any and all powers herein granted to the authority for the purposes herein expressed.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 21, 2011.

Filed in Office Secretary of State June 21, 2011.