

## **Breaks Regional Airport Authority**

Created: 2009 Acts of Assembly, c. 694.

### **BREAKS REGIONAL AIRPORT AUTHORITY ACT.**

#### **§ 1. Short title.**

This act shall be known and may be cited as the Breaks Regional Airport Authority Act. (2009, c. 694)

#### **§ 2. Creation; public purpose.**

If the Town of Grundy, or the governing body of Buchanan County, by resolution declare that there is a need for an airport authority to be created, and an operating agreement is developed for the purpose of establishing or operating airport facilities for any such participating political subdivisions, and that they should unite in its formation, an airport authority to be known as the Breaks Regional Airport Authority (hereinafter the Authority) shall thereupon exist for such participating counties and town and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Breaks Regional Airport Authority, such authority shall be conclusively deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such counties and town declaring that there is a need for such authority and that they should unite in its formation. A copy of such resolution duly certified by the clerks of the counties and by the mayor of the town by which it is adopted shall be admissible as evidence in any suit, action or proceedings. Any political subdivision of the Commonwealth, all or part of which is located within 60 miles of an Authority facility, is authorized to join such Authority pursuant to the terms and conditions of this act.

It is hereby declared that the ownership and operation by the Authority of modern and efficient air transportation and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. It is also declared that contract obligations of a county or town to provide payments over a period of more than one year to the Authority shall be excluded from existing indebtedness of such

county or town for purposes of calculating debt limit pursuant to Article VII, Section 10 (a) of the Constitution of Virginia. It is further declared that the Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Article VII, Section 10 (b) of the Constitution of Virginia. (2009, c. 694)

§ 3. Definitions.

As used in this act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means this Breaks Regional Airport Authority Act.

"Authority" means the Breaks Regional Airport Authority created by this act.

"Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this act.

"Breaks Regional Airport" means the airport facilities located at 2931 Airport Road, Vansant, Virginia, and any other facilities necessary, incidental, or convenient to the operation of the facilities.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all airports, terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and industrial and commercial facilities, purchased, constructed or otherwise acquired or operated by the Authority pursuant to the provisions of this act.

Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, aviation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Participating political subdivision" means any of the County of Buchanan or the Town of Grundy or any other political subdivision that may join or has joined the Authority pursuant to §§ 4 and 5 of this act.

"Political subdivision" means a county, municipality or other public body of this Commonwealth. (2009, c. 694)

§ 4. Participating political subdivision.

Prior to becoming a participating political subdivision, each political subdivision shall enter into a contract with the Authority and other participating political subdivisions setting forth the financial contribution to be made by such political subdivision to the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision. (2009, c. 694)

§ 5. Appointment and tenure of directors.

The powers of the Authority shall be vested in the directors of the Authority. The governing body of each participating political subdivision shall appoint two directors, and Dickenson County shall appoint one director. No member of the Board of Directors may be an employee of a participating political subdivision, except that the members of the governing bodies may each appoint one member to the Board of Directors. Only one member of each political subdivision's governing body may be appointed to the Board of Directors. The other appointments to the Board of Directors shall be limited to citizens from that political subdivision. The governing body of each participating political subdivision shall appoint the number of directors, set forth opposite its name below:

Town of Grundy: 2

County of Buchanan: 2

County of Dickenson: 1

The initial Board of Directors shall be appointed for the following terms: County of Buchanan: one member for one year, one member for four years; Town of Grundy: one member for two years, one member for three years; Dickenson County: one member for four years. Thereafter, each director shall be appointed for a four-year term or until his successor is appointed and qualified.

The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

Each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. (2009, c. 694)

#### § 6. Organization.

A majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

The Board shall hold regular meetings at such times and places as may be established by its bylaws. Special meetings of the Board may be called by any director or the Executive Director upon at least 48 hours written notice to each director served personally or left at his usual place of business or residence.

The Board of Directors shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate. The Board of Directors may appoint an executive director, who shall not be a director, who shall exercise such powers and duties as may be delegated to him by the Board of Directors, including powers and duties involving the exercise of discretion.

The Board of Directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board of Directors may appoint such committees as it may deem advisable and fix the duties and responsibilities of such committees. (2009, c. 694)

#### § 7. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including, for purposes of illustration, the following:

1. To sue and be sued in its own name;
2. To have perpetual succession;

3. To adopt a corporate seal;
4. To maintain offices at such places as it may designate in the Town of Grundy, the County of Buchanan, or the County of Dickenson;
5. To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate any airport, air landing fields, structures, aviation facilities and other property incidental thereto within the territorial limits of the participating political subdivisions subject to the limitation that such power shall be limited to such items as may be necessary for the operation of the Breaks Regional Airport;
6. To construct, install, maintain and operate facilities for the servicing and storage of aircraft and for the accommodation of cargo, freight, mail, express, and similar items, and for the accommodation and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment and supplies incidental to the operation of its airport facilities;
7. To grant to others the privilege to operate for profit concessions, leases, and franchises, including but not limited to the sale of airplanes, fuel, parts and equipment, maintenance of aircraft, the accommodation and comfort of persons using its facilities and the providing of ground transportation and parking facilities for such persons; such concessions, leases and franchises shall be exclusive or limited when deemed by the Authority necessary to further the public safety, improve the quality of air service, avoid duplication of service or conserve airport property and the airport operation;
8. To determine fees, rates, and charges for the use of its facilities;
9. To apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the Authority's facilities or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements and legal instruments as may be necessary, convenient or desirable or imposed as a condition to such financial aid;
10. To establish, operate and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;
11. To appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;
12. To contract with a participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 14 hereof, accounting services, including the annual independent audit required by § 12 hereof, procurement of goods and services, and to act as fiscal agent for the Authority. In the event of a contract for a participating political subdivision to act as fiscal agent, the Authority's employees shall be compensated, shall receive the same benefits, including pensions, and shall be subject to the personnel rules of said subdivision;
13. To establish personnel rules;

14. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

15. Subject to the provisions of any deed or deeds from the Town of Grundy to the Authority and any agreement or agreements among or between the Authority and any participating political subdivision, to sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein, if such disposition is in the public interest and in furtherance of the purposes of this act or if such property is not necessary for the purposes of the Authority;

16. To make, assume and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. a. To borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

b. The total indebtedness of the Authority at no time shall exceed the amount of \$500,000, in principal, whether by purchase of encumbered property, direct loan, bonded indebtedness, or debt in any other form except as agreed to by each participating political subdivision by resolution of the governing body thereof, in which case the total amount of indebtedness shall be expressed in the resolution of each such governing body;

c. Notwithstanding any other provision of law, no interest or right in the real property conveyed, in any form, to the Authority by a participating political subdivision, shall be conveyed, pledged, or otherwise transferred by the Authority for the purpose of obtaining or securing any indebtedness, nor shall any such property be encumbered by the Authority unless and until such subdivision has approved the nature of, terms of, and amount of such conveyance, pledge, transfer or encumbrance, by resolution of the governing body of said subdivision;

18. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

20. To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such; and

21. To do all things necessary or convenient to the purposes of this act.

However, the powers of the Authority expressed in this act shall be limited to those powers necessary for the construction and operation of the Breaks Regional Airport. To that end, property acquired, owned, or conveyed to the Authority, contracts entered into, financial assistance, indebtedness, rules and regulations adopted by the Authority and any other actions thereof may only pertain to said airport.

The grant of regulatory authority by this act, including regulations that displace, eliminate or limit competition by or among persons or entities, is based on the policy of

the Commonwealth to provide for the safe, adequate, economical and efficient provision of air transportation and related facilities and services to the public. (2009, c. 694)

§ 8. Name of airport.

The name of the airport operated by the Authority shall be Breaks Regional Airport. (2009, c. 694)

§ 9. Rules and regulations.

The Authority shall have the power to adopt, amend, and repeal rules and regulations for the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the Board of Directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Authority for at least 10 days; and

2. Post in a public place a notice declaring the Board of Directors' intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alterations, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to (i) traffic, including but not limited to motor vehicle speed limits and the location of and payment of public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) aircraft operation and maintenance shall have the force of law, as shall any other rule or regulation of the Authority that shall contain a determination by the Authority that it is necessary to accord the same the force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the traffic engineer or comparable official of the political subdivision in which such rules or regulations are to be enforced.

The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

All ordinances, rules and regulations duly adopted for the regulation, administration and operation of Breaks Regional Airport, in force at the effective date of this act shall remain in full force insofar as they or any part thereof are not inconsistent with the provisions of this act until amended or repealed in accordance with this act. (2009, c. 694)

§ 10. Police powers.

Authority employees meeting the minimum requirements of the Department of Criminal Justice Services shall be given special police power by the circuit court of any participating political subdivision. The authority conferred upon such special policemen shall be exercised only upon Authority facilities located within such participating

political subdivision, and shall be in all terms consistent with the requirements of Chapter 17 of Title 15.2 of the Code of Virginia.

Such special policemen shall have all powers vested in police officers under Chapter 17 of Title 15.2 of the Code of Virginia and shall be responsible upon Authority facilities for enforcing Authority rules and regulations and all other applicable statutes, ordinances, rules, and regulations of the United States of America and agencies and instrumentalities thereof and this Commonwealth and political subdivisions, agencies and instrumentalities thereof.

Such special policemen may issue summons to appear, or arrest on view or without warrant as permitted by law, and conduct before any court of competent jurisdiction any person violating any rule or regulation of the Authority or other applicable statute, ordinance, rule or regulation.

For the purpose of enforcing such statutes, ordinances, rules and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the participating political subdivision wherein the offense was committed shall have jurisdiction to try a person charged with the violating of any such statutes, ordinances, rules or regulations. (2009, c. 694)

#### § 11. Eminent domain.

The Authority is hereby granted full power to exercise the right of eminent domain within the participating political subdivisions in the acquisition of any lands, easements, privileges or other property interests that are necessary for constructing and operating an airport, including, where necessary to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport, avigation easements over lands or water outside the boundaries of its airport, even though such avigation easement may be either inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such land, easements and privileges by condemnation may be instituted and conducted in the name of the Authority in accordance with Title 25.1 of the Code of Virginia. However, prior to initiating such proceedings, the governing body of the participating political subdivision in which the subject property is located shall grant consent by resolution. (2009, c. 694)

#### § 12. Reports.

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. (2009, c. 694)

#### § 13. Procurement.

All contracts that the Authority may let for construction or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of the Code of Virginia. Upon completion of the construction of the Breaks Regional Airport, the Authority shall be subject to the same procurement procedures that apply to the Town of Grundy. (2009, c. 694)

§ 14. Deposit and investment of funds.

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act.

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries. (2009, c. 694)

§ 15. Authority to issue bonds.

The Authority shall have power and is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

The Authority shall not issue bonds unless and until the maximum amount of such issue and the general purposes thereof have been approved by the governing body of each participating political subdivision. Subject to the foregoing, bonds may be issued under this act notwithstanding any debt or other limitation prescribed in any other statute and without obtaining the consent of any city, town, or county government or any commission, board, bureau, or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things that are specifically required by this act.

The Authority may issue such types of bonds as it may determine, specifically bonds payable as to principal and interest (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Subject to the limitations set forth in § 7 of this act, any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by pledge of any income or revenues of the Authority, or where such mortgage has been approved by the participating political subdivisions, a mortgage of any facilities of the Authority.

Bonds of the Authority shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or

trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa.

The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. (2009, c. 694)

#### § 16. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the Authority shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;
2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;
3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;
4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues that are subject to a pledge;
5. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or facilities of the Authority or any part thereof or with respect to limitations on its right to undertake additional projects;
6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;
7. To covenant as to what other, or additional, debt may be incurred by it;
8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;
9. To provide for the replacement of lost, destroyed, or mutilated bonds;
10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport purposes;
11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the

payment of the principal and interest on its bonds or the sums due under its leases or as reserve for such payments; and (v) any moneys held for any other reserve or contingencies; and to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Authority to observe or perform any covenant on its part to be kept or performed, to cure any such default, and, subject to the limitation on total indebtedness expressed in this act, to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Authority with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Authority with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Authority itself might do and to dispose of the moneys collected in accordance with the agreement of the Authority with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Authority may reasonably require; and

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of the Authority, that tend to make the bonds more marketable; notwithstanding that such covenant, acts or things may not be enumerated herein, it being the intention hereof to give the Authority power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of Virginia or this act. (2009, c. 694)

§ 17. Fees, rents and charges.

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (2009, c. 694)

§ 18. Credit of Commonwealth and political subdivisions not pledged.

The bonds of the Authority shall not be a debt of the Commonwealth or any political subdivision thereof, other than the Authority, and neither the Commonwealth nor any political subdivision thereof, other than the Authority, shall be liable thereon, nor shall such bonds be payable out of any funds or properties other than those of the Authority.

All bonds of the Authority shall contain on the face thereof a statement to such effect. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. (2009, c. 694)

§ 19. Directors and persons executing bonds not liable thereon.

Neither the Board of Directors nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof. (2009, c. 694)

§ 20. Remedies of bondholder.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. Any resolution authorizing the issuance of the Authority's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (2009, c. 694)

§ 21. Taxation.

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act. The bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof.

Persons, firms, partnerships, associations, corporations and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on tangible personal property and machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling and taxes upon consumers of gas, electricity, telephone and other public utility services. (2009, c. 694)

§ 22. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (2009, c. 694)

§ 23. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth all or a part of which is located within 60 miles of an Authority facility, is authorized to provide services, to donate real or personal property and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority. The Authority may agree to assume, or reimburse a participating political subdivision for, any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority. With the consent of the governing body of the participating political subdivision, any such agreement may be made subordinate to the Authority's indebtedness to others. (2009, c. 694)

§ 24. Authority budget.

A. The Authority shall annually prepare and submit to the participating political subdivisions (i) a proposed operating budget showing its estimated general fund revenues and expenses on an accrual basis for the forthcoming fiscal year, and if such estimated expenses exceed such estimated revenues, the portion of the deficit proposed to be borne by each participating political subdivision, and (ii) a proposed capital budget showing its estimated expenditures for such fiscal year for assets costing more than \$20,000 (or such higher amount as the Authority and the participating political subdivisions may determine) and having an estimated useful life of 20 years or more and the source of funds for such expenditures, including any amount requested from the participating political subdivisions. No depreciation shall be included in the Authority's operating budget with respect to assets purchased by the Authority with funds appropriated to it for such purpose by a participating political subdivision and, for this determination, it shall be assumed that any appropriation so made is for the purchase of assets set forth in the applicable Authority budget to the extent such purchase price is included in the approved budget. Assets purchased by the Authority with bond proceeds shall be depreciated over the term of the bond issue in proportion to the maturities, including sinking fund installments, of the bond issue.

B. If the governing body of a participating political subdivision shall approve the Authority's proposed operating budget, it shall appropriate to the Authority such political subdivision's portion of such budget, subject to the availability of funds in regard to the budget of the political subdivision.

C. If the governing body of a participating political subdivision shall approve the Authority's proposed capital budget, it shall appropriate to the Authority such participating political subdivision's portion of the expenditures set forth therein. Any such appropriation may be reduced by the participating political subdivision's proportionate share of any grant funds received by the Authority for the purchase of assets included in the Authority's approved capital budget in excess of the grant funds shown in such capital budget as a source of funds for such expenditure, unless prohibited by the basic provider of the grant funds.

D. The Authority may expend any and all moneys within its control without obtaining the approval of the participating political subdivisions, but, except as otherwise

provided in this act with respect to contracts and agreements between the Authority and any political subdivision, the Authority shall not commit any participating political subdivision in an amount in excess of that appropriated to the Authority by the governing body of such political subdivision.

E. If at any time during any fiscal year it shall appear that the cash disbursements of the Authority will exceed its cash receipts for such fiscal year, including amounts appropriated to it by the participating political subdivisions, the Authority may request supplemental appropriations from the participating political subdivisions and any other political subdivision. (2009, c. 694)

§ 25. Allocation of deficit.

Any deficit budgeted by the Authority in any fiscal year, i.e., any excess of its estimated general fund expenses over its estimated general fund revenues, and the cost of any budgeted capital expenditures in excess of the amount shown as available therefor, as shown on the Authority's operating and capital budgets approved by the participating political subdivisions, shall be allocated among the participating political subdivisions as agreed upon by the participating political subdivisions and subject to the availability of funds in regard to the budgets of the political subdivisions. (2009, c. 694)

§ 26. Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions, which contracts may restrict the powers of the Authority otherwise granted by this act. Any participating political subdivision, or other political subdivision of the Commonwealth all or part of which is located within 60 miles of an Authority facility, is authorized to enter into contracts with the Authority, pursuant to which the Authority undertakes to provide the facilities and render the services specified therein. Any such contract or agreement may provide that the political subdivision will make payments to the Authority based on the services rendered by the Authority to the residents of such political subdivision, determined in such reasonable manner as the Authority and the political subdivision may mutually agree. Each political subdivision entering into such a service contract with the Authority is authorized to do everything necessary or proper to carry out and perform such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (2009, c. 694)

§ 27. Retirement benefits for certain employees formerly employed by a participating political subdivision.

When a local political subdivision joins the Authority, any employee of such local political subdivision who then becomes an employee of the Authority, if such employee is a member of a local retirement system, may elect to and may continue to be eligible to remain a member of such local retirement system in lieu of becoming a member of any retirement system with which the Authority may affiliate. Such election to remain a member of a local retirement system shall be made in writing within 120 days of such employee's political subdivision becoming a member of the Authority. In such event, service of such employee with the Authority shall be creditable as service with the participating political subdivision and shall be pursuant to all duly adopted ordinances and rules and regulations governing such retirement system. Any employee so electing shall not be entitled to any benefit under the Authority's retirement system, and the Authority shall pay the employer share of benefits provided the Authority's employees by

such political subdivision. Nothing herein shall apply to any health and accident insurance plan or to the Federal Old Age and Survivors Insurance System. (2009, c. 694)

§ 28. Dissolution of Authority.

Whenever it shall appear to the Authority, or to any participating political subdivision that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivision. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia. (2009, c. 694)

§ 29. Agreement with Commonwealth and participating political subdivisions.

The Commonwealth and, by participating in the Authority, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds. (2009, c. 694)

§ 30. Liberal construction.

Neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of this Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, notes or other obligations. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this act.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (2009, c. 694)

§ 31. Application of local ordinances, service charges and taxes upon leaseholds.

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control and fire

prevention codes or from building regulations of a political subdivision in which such property is located.

Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (2009, c. 694)

§ 32. Existing contracts, leases, franchises, not impaired.

No provisions of this act shall relieve, impair or affect any right, duty, liability or obligation arising out of any contract, concession, lease or franchise now in existence except to the extent that such contract, concession, lease or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of or otherwise modify at any time any contract, concession, lease or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease or franchise consents to said renegotiation, renewal, extension or modification. (2009, c. 694)