

Essex County Airport Authority

Created: 1988 Acts of Assembly, c. 871.
Amended 2012, c. 745 (§§ 1, 3, 5).

§ 1. Definitions.-As used in this act the words and terms herein shall have the following meanings, unless the context shall indicate another or different meaning or intent:

A. The word "Authority" shall mean the Essex County Airport Authority hereinafter created or, if the authority shall be abolished, the board, body, commission, or agency succeeding to the principal functions thereof or upon whom the powers given by this act to the Authority shall be conferred by law. The Authority is the same political subdivision formerly known as the Tappahannock-Essex County Airport Authority. As such, the Authority has all rights, obligations, and duties of the Tappahannock-Essex County Airport Authority, including but not limited to all leases, contracts, grants-in-aid, bonds, and all other agreements of whatsoever nature; holds title to all realty and personalty held by the former Tappahannock-Essex County Airport Authority; and may exercise all powers that might at any time past have been exercised by the Tappahannock-Essex County Airport Authority.

B. The word "project" shall mean an airport for general, commercial, and private use acquired, maintained, constructed, or reconstructed by the Authority under the provisions of this act, together with all necessary and convenient approaches, air navigation equipment, roads, and streets used in connection with such airport.

C. The term "cost of the project" shall embrace the cost of acquisition, construction or reconstruction (including improvements), landscaping, and conservation; the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the Authority for the operation of the project; the cost of demolishing or removing any buildings or structures on land acquired, including the cost of acquiring any land to which such buildings or structures may be moved; the cost of all machinery and equipment, financing charges, interest prior to and during construction or reconstruction, and, if deemed advisable by the Authority for a period not exceeding one year after completion of the project, the cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, provision for working capital and a reserve for interest; 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 project, the financing, and the placing of the project in operation.

D. The word "bonds" or the words "revenue bonds" shall mean revenue bonds or refunding bonds of the Authority, notes, interim certificates and any other evidences of indebtedness issued under the provisions of this act. (1988, c. 871; 2012, c. 745)

§ 2. Credit of Commonwealth and political subdivisions not pledged.-Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, town, district or other political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, town, district or other political subdivision thereof, but such bonds shall be

payable solely from the funds herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town or district therein or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor. Each such revenue bond shall contain a statement on its face substantially to the foregoing effect. All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the provisions of this act, and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act. (1988, c. 871)

§ 3. "Essex County Airport Authority."-There is hereby created and constituted a political subdivision of the Commonwealth to be known as the "Essex County Airport Authority." The exercise by the Authority of the powers conferred by this act in the acquisition, construction, reconstruction, operation, and maintenance of the project authorized by this act shall be deemed and held to be the performance of an essential governmental function.

Until July 1, 2013, the Authority shall consist of seven members; three members shall be appointed by the Tappahannock Town Council, and four members shall be appointed by the Board of Supervisors of Essex County. As of and after July, 1, 2013, the Authority shall consist of five members who shall be appointed by the Board of Supervisors of Essex County with at least one member residing in the Town of Tappahannock; on that date, the terms of members previously appointed by the Tappahannock Town Council shall be deemed expired, but the terms of members previously appointed by the Board of Supervisors of Essex County shall not be affected hereby, with two members' terms to end June 30, 2013; one member's term to end June 30, 2014; one member's term to end June 30, 2015; and the new member residing in the Town of Tappahannock to be appointed by the Board of Supervisors shall have an initial term expiring June 30, 2014. All appointments shall require only a simple motion passed by majority vote. Members shall be subject to removal from office under provisions of Article 1.1, Chapter 6, Title 24.1, Code of Virginia, 1950 as amended.

Members of the Authority shall serve for a term of three years and may be reappointed. Interim vacancies occurring in the membership of the Authority due to deaths, resignations, etc., will be filled only for the unexpired term of that member. A member shall continue to serve until his successor shall be duly appointed and qualified.

The Authority shall annually in July elect one of its members as chairman and another as vice-chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Three members of the Authority shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the other rights and perform all the duties of the Authority, and no vacancy in the membership of

the Authority shall impair the validity of any bonds or other evidences of indebtedness issued by the Authority.

The Authority shall meet at least monthly, at a time and place to be determined by the members and at such other times as the members may deem necessary or appropriate; minutes of all meetings shall be recorded with copies provided to the Board of Supervisors of Essex County.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties, but otherwise shall serve without compensation. (1988, c. 871; 2012, c. 745)

§ 4. General grant of powers.-The Authority is hereby authorized and empowered:

A. To adopt bylaws for the regulation of its affairs and the conduct of its business;
B. To adopt an official seal and alter the same at pleasure;
C. To determine, in its discretion, the design standards and the materials of construction, and to acquire, construct, reconstruct, maintain, repair and operate the project;

D. To issue revenue bonds of the Authority for any of its purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

E. To fix and revise from time to time and charge and collect tolls, rates, fees, rentals and other charges for the use of the project;

F. To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

G. To employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

H. To accept real, personal or mixed property, including money, from individuals, partnerships, corporations and other business entities;

I. To borrow money on a short-term basis and issue from time to time its notes therefor payable on such terms, conditions or provisions as it may deem advisable;

J. To sue and be sued in its own name, plead and be impleaded;

K. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act; and

L. To do all acts and things necessary and convenient to carry out the powers expressly granted in this act. (1988, c. 871)

§ 5. Acquisition of property.-A. The Authority is hereby authorized and empowered to acquire by eminent domain in accordance with the applicable provisions of § 5.1-34 and Title 25.1 of the Code of Virginia, as amended, or by purchase from funds provided under the provisions of this act, and such other moneys as may be provided by federal, state and local governments or by gift, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the project, upon such terms and conditions as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and commissions of the Commonwealth, with the approval of the Governor, and, notwithstanding any contrary provisions of law, general or special, the County of Essex and all other local governments of the Commonwealth, without the

necessity for any advertisement, order of court, or other action or formality, are hereby authorized and empowered to lease, lend, grant, give, transfer, or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon any real, personal, or mixed property, including money, which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public highways and other property already devoted to public use. All agreements or arrangements entered into by the Town of Tappahannock and the County of Essex to provide support for bonds or other obligations of the Authority issued or incurred before July 1, 2013, are hereby continued and shall remain in force and effect in accordance with their terms, provided that four-sevenths of any payment made pursuant to any such agreement or arrangement shall be provided by the County of Essex and three-sevenths of any such payment shall be provided by the Town of Tappahannock.

B. Title to any property acquired by the Authority shall be taken in the name of the Authority. (1988, c. 871; 2012, c. 745)

§ 6. Revenue bonds.-The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding such interest rate as is permissible by law, shall mature at such time times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, 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, the manner of execution of the bonds and shall fix the denomination or denominations the bonds and the place or places of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. In case any officer whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provisions of this act, such bonds shall be deemed to be negotiable instruments under the laws of Commonwealth. The bonds may be issued in such form as the Authority may determine. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project and operating expenses and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim certificates or temporary bonds exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this act. (1988, c. 871)

§ 7. Trust agreement.-In the discretion of the Authority, any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, reconstruction, improvement, maintenance, repair, operation and insurance of the project, the rates of tolls or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1988, c. 871)

§ 8. Revenues.-The Authority is hereby authorized to fix, revise, charge and collect tolls or other charges for the use of the project and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the airport for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls or other charges shall be so fixed and adjusted in respect of the aggregate of tolls or other charges from the project as to provide a fund sufficient with other revenues, if any, to pay (i) the cost of improving, maintaining, repairing and operating such project and (ii) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of improvement, maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby

pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Any pledge made by the Authority pursuant to this act shall be governed by the laws of the Commonwealth. The disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1988, c. 871)

§ 9. Trust funds.-All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, or as grants, appropriations or other funds provided by federal; state or local governments, shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues to be received by a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. (1988, c. 871)

§ 10. Remedies.-Any holder of bonds issued under the provisions of this act and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement made either at law or in equity or by applicable federal grant restrictions and/or requirements, by suit, action, injunction, mandamus or other proceedings, may protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust 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 agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1988, c. 871)

§ 11. Refunding bonds.-The Authority is hereby authorized to provide by resolution for the issuance of its refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable. (1988, c. 871)

§ 12. Exemption from taxation.-The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the

Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom; and the bonds issued under the provisions of this act, their transfer and 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 municipality, county or other political subdivision thereof. (1988, c. 871)

§ 13. 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 which 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. (1988, c. 871)

§ 14. Act liberally construed.-This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1988, c. 871)

§ 15. Constitutional construction.-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 remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein. (1988, c. 871)

§ 16. Inconsistent laws inapplicable.-All other general or special laws inconsistent with any provision of this act are hereby declared to be not applicable to the provisions of this act. (1988, c. 871)