

Act No. 95
Public Acts of 2015
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015**

Introduced by Reps. VerHeulen, Yonker, Victory, Hooker, Dillon, Afendoulis, Lyons and Brinks

ENROLLED HOUSE BILL No. 4468

AN ACT to amend 1945 PA 327, entitled “An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state, by political subdivisions, or by public airport authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics,” (MCL 259.1 to 259.208) by amending the title, as amended by 2002 PA 90, and by adding chapter VIIA.

The People of the State of Michigan enact:

TITLE

An act relating to aeronautics in this state; providing for the development and regulation of aeronautics; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, registration, and supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by this state, by political subdivisions, or by airport authorities; providing for the incorporation of airport authorities and providing for the powers, duties, and obligations of airport authorities; providing for the transfer of airport management to airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for a repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics.

CHAPTER VIIA.

ACQUISITION AND OPERATION OF AIRPORTS, LANDING FIELDS, AND OTHER AERONAUTICAL FACILITIES BY REGIONAL AIRPORT AUTHORITIES

Sec. 137. This chapter shall be known and may be cited as the “regional airport authority act”.

Sec. 138. (1) Unless specified otherwise in this chapter, definitions in chapter II apply to terms used in this chapter.

(2) As used in this chapter:

(a) “Airport” means a publicly owned airport licensed by the department under section 86 and includes all airport facilities at the airport. An airport is publicly owned if the portion used for the landing and taking off of aircraft is owned, operated, controlled, leased to, or leased by the United States or an agency or department of the United States, this state, a local government, or another public corporation.

(b) “Airport facilities” means any of the following at an airport:

(i) Real or personal property, or an interest in real or personal property, used for the landing, taking off, taxiing, parking, or storing of aircraft, or for receiving or discharging passengers or cargo, an appurtenant area used for an airport building or other facility, and any appurtenant right-of-way.

(ii) Real or personal property, including an easement, used for over-flight, noise abatement, a clear zone, a side transition zone, an environmental mitigation requirement, utilities, a drainage system, a right-of-way, or any other requirement imposed as a condition of approving the acquisition, construction, expansion, or operation of other airport facilities, whether or not located within the boundaries of the local government.

(iii) Structures, buildings, and improvements, including aeronautical and nonaeronautical, commercial or noncommercial structures, concessions, roadways, beacons, markers, communication systems, and navigational aids.

(iv) Any other improvements or facilities necessary, useful, or intended for use in the operation of an airport.

(c) “Approval date” means, for airports certificated under 14 CFR part 139, the date of the issuance by the FAA to the regional authority assuming operational jurisdiction of the airport of a certificate under 14 CFR part 139 with respect to the airport, and the concurrence by the FAA of the designation of the regional authority as a sponsor of the airport, including the FAA’s approval of the assignment of existing grant agreements to the regional authority, or, for an uncertificated airport, the date specified in the agreement pursuant to which the airport is to be transferred to the regional authority, as approved by the FAA.

(d) “Board” means the governing body of a regional authority appointed under section 140.

(e) “Chief executive officer” means the chief administrative officer of a regional authority.

(f) “Enplanement” means a domestic, territorial, or international revenue passenger who boards an aircraft that departs from the airport.

(g) “FAA” means the Federal Aviation Administration of the United States Department of Transportation, or any successor agency.

(h) “Fiscal year” means the annual period that is the fiscal year of the local government or another annual period established by the board.

(i) “Legislative body” means the elected body of a local government that has legislative powers.

(j) “Local government” means a county, city, township, or village that creates the regional authority.

(k) “Regional authority” means a regional airport authority created under section 139 and governed by a board.

(l) “Sponsor” means a public agency authorized by 49 USC 47101 to 47134 to submit requests for, accept, and be responsible for performing all of the assurances associated with accepting grant agreements with respect to airports from the FAA or this state, and to perform some duties and responsibilities previously assumed by the local government that owns or operates the airport before the transfer of operational jurisdiction of the airport to an authority created under this chapter by virtue of the local government’s acceptance before the approval date of grants for the benefit of the airport from the FAA or another agency of the United States or this state.

Sec. 139. (1) An authority created under this section is a public body corporate for purposes of state and federal law and must comply with all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) The uniform budget and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(2) A local government that owns or operates an airport may, by resolution, declare its intention to incorporate a regional authority. In the resolution of intent, the legislative body of the local government shall set a date for a public hearing on the adoption of a proposed resolution incorporating the regional authority. The public hearing must be held

in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. After the public hearing, if the legislative body of the local government intends to proceed with the incorporation of the regional authority, it must adopt, by majority vote of its members, a resolution adopting the articles of incorporation of the regional authority. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval by an officer of the local government and the adoption of an ordinance over the officer's veto. The articles of incorporation for the regional authority take effect on being filed with the secretary of state.

(3) The validity of the incorporation of a regional authority is conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the creation or incorporation of the regional authority under this chapter. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner. The state transportation department is a necessary party in an action under this subsection.

(4) The department shall not promulgate rules under this chapter.

Sec. 140. (1) An authority created under this chapter must be directed and governed by a board consisting of not fewer than 5 and not more than 9 members, who shall serve 3-year terms. The initial terms of the board members must be staggered so that the terms of not less than 20% of the members expire each year.

(2) The articles of incorporation of an authority created under this chapter must specify the number and qualifications of the members of the board. However, not more than 45% of the members may be elected officials, and at least 1 member must be a resident of a jurisdiction in this state located outside the boundaries of the local government. At a minimum, a board member must have experience in aviation, business, accounting, finance, marketing, engineering, law, real estate, economic development, management, or another field of value to the operation of the airport. A full-time paid employee of the local government is not eligible for appointment to the board.

(3) Within 60 days after incorporation of a regional authority, the members of the legislative body of the local government shall appoint the members of the board. Before assuming the duties of office, a member of the board must qualify by taking and subscribing to the constitutional oath of office.

(4) A member of the board whose term has expired shall hold office until the board member's successor is appointed and qualified, or until resignation or removal. If a member of the board is removed or is unable to complete his or her term of office, the legislative body shall appoint a successor to complete the term. A member of the board may resign by written notice to the regional authority. The resignation is effective on receipt by the secretary or chairperson of the regional authority or at a subsequent time as set forth in the notice of resignation. The regional authority shall promptly advise the local government in writing of any vacancy. The legislative body shall appoint a new member to fill the vacancy within 60 days after the local government is advised of the notice of resignation by the regional authority.

(5) The local government may only remove a board member for cause. Cause includes failure to attend at least 70% of the meetings of the board each fiscal year, conviction of a felony, breach of fiduciary duty to the regional authority, and other conduct as specified in the articles of incorporation or bylaws of the regional authority.

(6) Within 90 days after a regional authority is incorporated under section 139, the board of the regional authority shall hold its first meeting. At the first meeting, the board shall organize by electing a chairperson, a vice-chairperson, a secretary, and any additional officers that the board considers necessary. With the exception of the treasurer, all officers of the board must be elected annually by, and must be members of, the board.

(7) Except for those powers reserved or delegated to the chief executive officer of the regional authority by this chapter or by the board as provided in section 142(3), the board may withdraw from the chief executive officer any power that the board has delegated to the chief executive officer.

(8) A regional authority shall not compensate a member of the board for service to the authority or attendance at a meeting, but may reimburse a member for an actual and necessary expense incurred in the discharge of the member's official duties.

(9) A board may act only by resolution or ordinance. Unless the articles of incorporation or bylaws of the regional authority require otherwise, a vote of the majority of the board members present at a meeting of the board or a committee of the board at which a quorum is present constitutes the action of the board or committee.

Sec. 141. (1) After organization, a board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. The board shall meet not less than quarterly. A special meeting of the board may be scheduled as provided in the bylaws of the regional authority, but the board chairperson shall call a special meeting on request of 2 or more board members.

(2) A board shall appoint an audit committee consisting of at least 2 members of the board. The audit committee shall meet not less than annually with the chief financial officer, the chief executive officer, and the independent auditors of the regional authority to review reports related to the financial condition, operations, performance, and management of the regional authority and airport.

Sec. 142. (1) A board shall appoint a chief executive officer who must have professional qualifications commensurate with the responsibility of the jobs to be performed by chief executive officers. The chief executive officer is an ex officio member of the board, is not considered in determining the presence of a quorum, and does not have a vote. The chief executive officer serves at the pleasure of the board. The board may contract with the chief executive officer for a commercially reasonable length of time commensurate with the length of time for contracts of airport chief executive officers, directors, or managers with similar responsibilities at other airports or airport authorities in or outside of this state with a comparable number of annual enplanements. A contract under this subsection is terminable at will by the board.

(2) A chief executive officer shall appoint a chief financial officer who shall serve as the treasurer of the regional authority. The chief financial officer must have professional qualifications commensurate with the responsibility of the jobs to be performed by chief financial officers. Notwithstanding any law to the contrary, the chief financial officer shall receive all money belonging to the regional authority or arising or received in connection with the airport from whatever source derived. The chief financial officer shall deposit, invest, and pay money of the regional authority only in accordance with applicable state law and policies, procedures, ordinances, or resolutions adopted by the board. On and after the approval date, the regional authority is considered to be the owner of all money or other property previously or later received by the treasurer of the local government or deposited in the treasury of the local government to the credit of the airport for which operational jurisdiction has been transferred to the regional authority. The regional authority is entitled to all interest and other earnings on the money on and after the approval date. The treasurer of a local government that receives or has custody of money or other property that belongs to a regional authority shall promptly transfer the money or other property to the custody of the chief financial officer of the regional authority.

(3) The board shall require the chief financial officer and chief executive officer to post a suitable bond of not less than \$100,000.00 by a responsible bonding company. The regional authority shall pay the premium of the bond.

(4) The board shall prescribe the duties and responsibilities of the chief executive officer that are in addition to the duties and responsibilities imposed on the chief executive officer by this chapter. The chief executive officer shall supervise, and is responsible for, all of the following:

(a) The day-to-day operation of the airport, including the control, supervision, management, and oversight of the functions of the airport.

(b) The issuance of bonds and notes as approved by the board.

(c) The negotiation, establishment and approval of compensation and other terms and conditions of employment for employees of the regional authority, within the budget approved by the board. However, any collective bargaining agreements for represented employees are subject to board approval.

(d) The appointment, dismissal, discipline, demotion, promotion, and classification of employees of the regional authority.

(e) The negotiation, supervision, and enforcement of other contracts as approved by the board and entered into by the regional authority and the supervision of contractors and subcontractors of the regional authority in their performance of their duties.

(5) The chief executive officer may execute and deliver, and delegate signatory power for, contracts, leases, obligations, and other instruments approved by the board or for which power to approve has been delegated to the chief executive officer of the regional authority by this chapter or by action of the board. The chief executive officer has all powers incident to the performance of his or her duties that are prescribed by this chapter or by the board. The board may delegate additional powers to the chief executive officer not enumerated in this chapter. If the chief executive officer is temporarily absent or disabled, he or she may designate a qualified person as acting chief executive officer to perform the duties of the office. If the chief executive officer fails or is unable to designate an acting chief executive officer, the board shall designate an acting chief executive officer for the period of absence or disability of the chief executive officer.

(6) A regional authority shall establish procurement policies and procedures consistent with the procurement policies of the FAA and any applicable state laws or rules, including any competitive bidding requirements.

(7) A regional authority may enter into a lease purchase or installment purchase contract for a period not to exceed the anticipated useful life of the item purchased. The authority may enter into a cooperative purchasing agreement with this state or another public entity for the purchase of goods, including, but not limited to, recycled goods, and services necessary for the authority.

(8) A member of the board or an officer, appointee, or employee of a regional authority is a public servant under 1968 PA 317, MCL 15.321 to 15.330, and is subject to any other applicable law with respect to conflicts of interest. The board shall establish an ethics policy governing the conducting of airport business and the conduct of airport employees. A regional authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the regional authority to preclude the opportunity for and the occurrence of transactions by the regional authority that would create a conflict of interest involving members of the board or employees of the authority.

(9) A member of the board or an officer, appointee, or employee of the regional authority is not subject to personal liability when acting in good faith within the scope of his or her authority and is not subject to liability for any liability of the regional authority. The board may defend and indemnify a member of the board or an officer, appointee, or employee of the regional authority against liability arising out of the discharge of his or her official duties. A regional authority may indemnify and procure insurance indemnifying members of the board and officers, appointees, and employees of the regional authority from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the regional authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the regional authority. The regional authority may also purchase and maintain insurance on behalf of any person against any liability asserted against the person and incurred by the person in any capacity or arising out of the status of the person as a member of the board or an officer or employee of the regional authority, whether or not the regional authority would have the power to indemnify the person against that liability under this subsection. A regional authority, pursuant to bylaw, contract, agreement, or resolution of its board, may obligate itself in advance to defend and indemnify persons.

(10) A regional authority shall indemnify and hold harmless the local government for any civil claim existing or any civil action or proceeding pending by or against the local government involving or relating to the airport, airport facilities, or any civil liability related to the obligations of the local government issued or incurred with respect to the airport that was pending at the time of, or that was incurred before, the transfer of operational jurisdiction of the airport to the regional authority.

Sec. 143. (1) A regional authority may do any of the following:

(a) Adopt a corporate seal.

(b) Sue or be sued in any court of this state or file suit in any federal court.

(c) Plan, promote, extend, maintain, acquire, purchase, construct, install, improve, repair, enlarge, and operate all airports and airport facilities under the operational jurisdiction of or owned by the regional authority.

(d) Assume and perform the obligations and the covenants related to the airport that are contained in an agreement or other document by the local government or between the local government and the state or the FAA relative to grants for the airport or airport facilities.

(e) Acquire, by grant, purchase, devise, lease, the exercise of the right of eminent domain, or otherwise, and hold real and personal property, in fee simple or any lesser interest or by easement, as the regional authority considers necessary either for the construction of airport facilities or for the efficient operation or extension of any airport facilities acquired or constructed or to be constructed under this chapter, and, except as otherwise provided by this act, hold in its name, lease, and dispose of all real and personal property owned by or under the operational jurisdiction of the regional authority. The acquisition of land by a regional authority for an airport or airport facilities in furtherance of the purposes of the regional authority, and the exercise of any other powers of the regional authority, are public, governmental, and municipal functions, purposes and uses exercised for a public purpose, and matters of public necessity.

(f) Enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter with a department or agency of the United States, with a state or local governmental agency, or with another person, public or private, on terms and conditions acceptable to the regional authority consistent with section 142(6).

(g) Have and exercise exclusive responsibility to study and plan any improvements, expansion, or enhancements that affect the airport, and commission planning, engineering, economic, and other studies to provide information for making decisions about the location, design, management, and other features of the airport or airport facilities.

(h) Exercise responsibility for developing all aspects of the airport and airport facilities, including, but not limited to, all of the following:

(i) The location of terminals, hangars, aids to air navigation, parking lots and structures, cargo facilities, and all other facilities and services necessary to serve passengers and other customers of the airport.

(ii) Street and highway access and egress with the objective of minimizing, to the extent practicable, traffic congestion on access routes in the vicinity of the airport.

(iii) Participation in demonstration programs and economic development.

(i) Act as a sponsor and submit requests for, accept, and be responsible to perform all of the assurances associated with accepting grants from the FAA or another agency of the United States or of this state with respect to the airport under the operational jurisdiction of the regional authority, and perform the duties and responsibilities previously assumed by the local government by virtue of its acceptance of grants from the FAA or another agency of the United States or this state.

(j) Enter into agreements to use the facilities or services of this state, a subdivision or department of this state, a county or municipality, or the federal government or an agency of the federal government as necessary or desirable to accomplish the purposes of this chapter for consideration or pursuant to a cost-allocation formula in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state, including, but not limited to, policies of the FAA prohibiting revenue diversion or the payment of fees exceeding the value of services provided by a governmental agency.

(k) Allow this state, a subdivision or department of this state, a county or municipality, or the federal government or an agency of the federal government to use airport facilities or the services of the regional authority as necessary or desirable to accomplish the purposes of this chapter, for consideration acceptable to the regional authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(l) Adopt and enforce in a court of competent jurisdiction of this state reasonable rules, regulations, and ordinances for the orderly, safe, efficient, and sanitary operation and use of airport facilities, and establish civil and criminal penalties for the violation of rules, regulations, and ordinances authorized under this chapter to the same extent as the local government.

(m) Enter into exclusive or nonexclusive contracts, leases, franchises, or other arrangements with any person or persons for granting the privilege of using, improving, or having access to the airport, the airport facilities, or a portion of the airport or the airport facilities, for commercial airline-related purposes consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(n) Enter into exclusive or nonexclusive contracts, leases, or other arrangements not described in subdivision (m) for commercially reasonable terms consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(o) Apply for and receive loans, grants, guarantees, or other financial assistance in aid of airport facilities and the operation of the airport from a state, federal, county, or municipal government or agency or from another source, public or private, including financial assistance for planning, constructing, improving, or operating the airport, for providing security at the airport, or for providing ground access to the airport.

(p) Appoint and vest with police powers airport law enforcement officers, guards, or police officers under this chapter. The law enforcement officers, guards, or police officers of the regional authority have the full police powers and authority of peace officers in the areas over which the regional authority has operational jurisdiction, including, but not limited to, the prevention and detection of crime, the power to investigate and enforce the laws of this state, rules, regulations, and ordinances issued by the regional authority, and, to the extent permitted or required by federal law and regulations, requirements of federal law and regulations governing airport security. The officers may issue summonses, make arrests, and initiate criminal proceedings. A regional authority is responsible for all actions of its officers committed under color of their official position and authority.

(q) Procure insurance or become a self-funded insurer against loss in connection with the property, assets, or activities of the regional authority.

(r) Invest money of the regional authority, consistent with applicable state law and the contractual obligations of the regional authority, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.

(s) Fix, charge, and collect rates, fees, rentals, and charges in and for the use and operation of the airport or airports under the operational jurisdiction of the regional authority.

(2) Except as otherwise prohibited by this chapter, a regional authority has all the powers of a political subdivision under this act. The powers granted to a regional authority are public and governmental functions.

(3) Except for the regional authority's exclusive jurisdiction over landing fields and other aeronautical facilities, this chapter does not limit the power of a local government in which an airport is located to zone property under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, or to engage in land planning under the Michigan planning enabling act, 2008 PA 33, MCL 125.3801 to 125.3885, with respect to property that is not part of the airport.

(4) Notwithstanding any other provision of law to the contrary, a regional authority shall not impose or levy taxes, except the regional authority may impose fees or charges permitted by federal law.

(5) Unless a regional authority obtains the approval of the legislative body, the regional authority shall not incur any indebtedness pledging, on a superior basis, any revenues from airport facilities that are otherwise pledged to secure any obligation, note, bond, or other instrument of indebtedness for which the full faith and credit of the local government has been pledged. The local government may establish conditions under which the regional authority may incur indebtedness pledging, on a parity basis, any revenues from airport facilities that are otherwise pledged to secure any obligation, note, bond, or other instrument of indebtedness for which the full faith and credit of the local government has been pledged.

(6) On the creation or incorporation of an authority under this chapter, the local government shall not pledge airport facilities or assets to secure any instrument of indebtedness except to secure bonds issued for airport capital improvement projects after the creation or incorporation of the regional authority and before the approval date.

(7) A regional authority shall not take any action contrary to obligations assumed or entered into under state law or federal rules or regulations or any agreement entered into or assumed with respect to state or federal grants.

(8) A local government shall not take any action contrary to obligations or covenants under applicable state or federal law, regulations, and assurances associated with the state or federal government.

(9) If a local government previously acted as a sponsor and action by, or concurrence of, the local government is required to complete a project related to the airport or airport facilities, the local government shall not withhold, condition, or delay concurrence with any regional authority action necessary to complete the project in accordance with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(10) A regional authority shall serve as the agent of the local government for the preparation, submission, execution, and administration of any state or federal grants pending on the approval date. The regional authority shall also act as the custodian of all money received or to be received by the local government or the regional authority for the projects for which the grants were awarded.

Sec. 144. (1) All of the following occur on the approval date:

(a) The regional authority may acquire, and shall assume the exclusive right, responsibility, and authority to occupy, operate, control, and use, the airport and the airport facilities owned by the local government on that date, subject only to any restrictions imposed by this act.

(b) The local government shall convey title to or enter into a lease of the real property comprising the airport with the regional authority, which shall otherwise acquire and succeed to all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used for purposes of the airport on that date by the local government. The officers of the local government shall execute the instruments of conveyance, assignment, and transfer that are necessary and appropriate to comply with this subdivision.

(c) The regional authority shall assume, accept, and become solely liable for all of the lawful obligations, promises, covenants, commitments, and other requirements in respect of the airport of the local government, whether known or unknown, contingent or matured, except for any full faith and credit pledge of the local government in respect of bonds issued by the local government for airport purposes, and shall perform all of the duties and obligations and is entitled to all of the rights of the local government in respect of the airport under any ordinances, agreements, or other instruments and under law. Consistent with this chapter, this assumption includes, and any person shall transfer to the regional authority, all licenses, permits, approvals, or awards related to the airport; all grant agreements, grant preapplications, and the right to receive the balance of any money payable under the agreements; the right to receive any money, including any passenger facility charges, payable to the local government on the approval date and money paid to the local government after the approval date; the benefit of contracts and agreements; and all of the local government's duties, liabilities, responsibilities, and obligations as sponsor of the airport, except for any obligation or liabilities contested in good faith by the regional authority.

(2) All lawful actions, commitments, and proceedings, including, but not limited to, revenue bond financings for which a notice of intent resolution has been adopted, of the local government made, given, or undertaken before the date of assumption by the regional authority under this section are ratified, confirmed, and validated on assumption by the regional authority. All actions, commitments, or proceedings undertaken shall, and all actions, commitments, or proceedings of the local government in respect of the airport in the process of being undertaken by, but not yet a commitment or obligation of, the local government in respect of the airport may, from and after the date of assumption by the regional authority under this section, be undertaken and completed by the regional authority in the manner and at the times provided in this chapter or other applicable law and in any lawful agreements made by the local government before the date of assumption by the regional authority under this section.

(3) The exclusive right and authority to occupy, operate, control, and use the airport facilities includes, but is not limited to, all of the following:

(a) Operational jurisdiction over all real property of the airport, including, but not limited to, terminals, runways, taxiways, aprons, hangars, aids to air navigation, vehicles or facilities, parking facilities for passengers and employees, and buildings and facilities used to operate, maintain, and manage the airport, subject to any liens on the real property and restrictions and limitations on the use of the real property.

(b) The local government's right, title, and interest in, and all of the local government's responsibilities arising under, leases, concessions, and other contracts for airport facilities.

(4) The acquisitions, assumptions, successions, or transfers described under this section include, but are not limited to, all of the following:

(a) All contracts and other obligations with airlines, tenants, concessionaires, leaseholders, and others at the airport.

(b) All financial obligations secured by revenues and fees generated from the operations of the airport, including, but not limited to, airport revenue bonds, special facilities revenue bonds, and all bonded indebtedness associated with the airport.

(c) All cash balances and investments relating to or resulting from operations of the airport for which operational jurisdiction has been transferred to a regional authority, all money held under an ordinance, resolution, or indenture related to or securing obligations of the local government that have been assumed by the regional authority, all of the accounts receivable or choses in action arising from operations of the airport, and all benefits of contracts and agreements.

(d) All office equipment, including, but not limited to, computers, records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, and general administration.

Sec. 145. (1) The transfer of the operational jurisdiction over an airport to a regional authority may not in any way impair any contract with an airline, vendor, tenant, bondholder, or other party in privity with the local government.

(2) On the transfer of operational jurisdiction over an airport under section 144, the local government is relieved from all further costs and responsibility arising from or associated with control, operation, development, and maintenance of the airport, except as otherwise required under obligations retained by the local government under this chapter or as otherwise agreed by the local government.

(3) The local government shall comply with all of the following:

(a) Refrain from any action that would impair the regional authority's exercise of the powers granted to the regional authority under this chapter or that could cause the regional authority to violate its rate or bond covenants.

(b) Refrain from any action to sell, transfer, or otherwise encumber or dispose of airport facilities owned by the local government without the consent of the regional authority and, if necessary, the FAA and the department.

(c) Take all action reasonably necessary to cure any defects in title to airport facilities transferred to the regional authority.

(d) On incorporation of a regional authority and before the approval date, conduct operations of the airport in the ordinary and usual course of business.

(e) Maintain and repair, including provide snow removal for, any road that provides ingress and egress to the airport over which responsibility for maintenance and repair is retained by the local government pursuant to agreement or law.

(4) At the request of a regional authority, the local government may provide the regional authority with transitional services previously performed by the local government and related to the operation of the airport until the date the regional authority elects to assume the services. The regional authority shall pay the cost of the services in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state, including, but not limited to, policies of the FAA that prohibit revenue diversion or the payment of fees that exceed the value of services provided by a governmental agency.

Sec. 146. (1) Employees at an airport may transfer to the regional authority to which operational jurisdiction of the airport will be transferred as provided in this section on 1 or more dates agreed to by the regional authority and the local government. The date or dates must be as soon as administratively feasible, but not later than 180 days after the approval date. The initial terms of employment, including for purposes of pension and other benefits, for transferring employees must be substantially similar to the terms of employment for the employees immediately before the transfer. The regional authority shall offer to enter into a collective bargaining agreement covering transferring employees who on their transfer date were covered by a collective bargaining agreement with the local government. The agreement offered by the regional authority must have substantially similar terms of employment as the local government collective bargaining agreement and remain in effect for the same period. The regional authority shall become the employer of transferring employees on the date of transfer without a break in employment and shall recognize the length of service of the transferring employees with the local government for purposes of the regional authority's benefit plans and programs. The local government is not an employer of any employee at the airport after the transfer date. The accrued local government pension benefits or credits of a transferring employee must not be diminished because of the transfer. Instead, the pension benefits and credits must be transferred to the retirement system or pension plan established by the regional authority as provided in subsections (2) and (3).

(2) By the approval date, the regional authority shall establish a retirement system or pension plan that initially provides benefits to each transferring employee that are substantially similar to the benefits provided by the local government's retirement system or pension plan before the approval date. The regional authority's retirement system or pension plan shall credit a transferring employee for his or her prior employment with the local government, including for purposes of eligibility, vesting, and accruals, and the employee shall make any mandatory employee contribution to the regional authority's retirement system or pension plan.

(3) The local government shall, as soon as administratively feasible, but not later than 180 days after all employee transfers under subsection (1), transfer to the trustees of the regional authority retirement system or pension plan both of the following:

(a) For defined benefit plans, all accrued benefits, all accrued liabilities, and a share of the assets of the local government's plan sufficient to fund the transferring employees' accrued benefits to the extent that the benefits have been funded by the local government on or before the transfer date.

(b) For defined contribution plans, the amount credited to each transferring employee's account in the local government's retirement system or pension plan on or before the transfer date. For purposes of this subparagraph, the local government shall fully vest the account of the transferring employee on the day immediately preceding the transfer date and shall make contributions on behalf of the transferring employee for the portion of the transfer year in which the employee was employed by the local government and eligible to participate in the plans regardless of any allocation requirements that otherwise might prevent the transferring employee from receiving a contribution for the year of the transfer.

(4) The local government shall transfer the amounts to be transferred under subsection (3) in cash or in some other form acceptable to the trustees. The transfer of money to the trustees under this subsection terminates the local government's obligation to the transferring employees and the transferring employees' rights under the local government's retirement system and pension plans.

(5) If the local government has an obligation to provide retiree health benefits or payments to transferring employees, the regional authority shall assume the obligations. The regional authority shall not assume obligations in excess of the amount properly allocable to the transferring employees. The local government shall, as soon as administratively feasible but not later than 180 days after all employee transfers under subsection (1), transfer to the regional authority an amount sufficient to fund the transferring employees' accrued benefits to the extent that the benefits have been funded by the local government on or before the transfer date. The regional authority shall transfer the amounts required to be transferred under this subsection to a qualifying entity established by the regional authority in cash, or in some other form acceptable to the qualifying entity. The transfer of money to a qualifying entity established by the regional authority under this subsection terminates the local government's obligations to the transferring employees and the transferring employees' rights to receive the benefits from the local government.

(6) This section only applies to local government employees who transfer their employment to the regional authority in accordance with this section.

(7) An employee hired by the regional authority, other than a transferring employee, is eligible to participate in the benefit plans established by the regional authority, in accordance with and subject to the terms of the plans as established by the regional authority, in its sole discretion.

(8) As used in this section:

(a) "Transfer date" means the earlier of the date of transfer or the deadline for transfer of employment to the regional authority.

(b) "Transferring employee" means an employee at the airport who timely transfers to the regional authority by the transfer date.

Sec. 147. A regional authority may accept the transfer of operational jurisdiction of other publicly owned airports, in and outside of the local government. In accepting a transfer, the regional authority shall not assume financial obligations other than those associated with the operation of the airport being transferred and with debt issued to finance improvements at the airport being transferred.

Sec. 148. (1) For the purpose of acquiring, purchasing, constructing, improving, installing, enlarging, furnishing, equipping, reequipping, or repairing airports and airport facilities for which operational jurisdiction is transferred under this chapter or is acquired by the regional authority, a regional authority may issue self-liquidating bonds of the authority in accordance with and exercise all of the powers conferred on public corporations by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(2) A regional authority may borrow money and issue municipal securities in accordance with and exercise all of the powers conferred on municipalities by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) All bonds or other evidences of indebtedness issued by a regional authority under this chapter, and the interest on them, are free and exempt from all taxation in this state, except inheritance and estate taxes and taxes on gains realized from the sale, payment, or other disposition of them.

(4) On request of the board of a regional authority, the legislative body may take 1 or more of the following actions:

(a) Pledge the full faith and credit of the local government behind any obligation or evidence of indebtedness of the regional authority.

(b) Advance money to the regional authority for working capital and other purposes of the regional authority on terms and conditions agreed to by the regional authority and the local government consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(c) Appropriate and grant money to the regional authority in furtherance of its purposes.

(d) Grant and convey to the regional authority real or personal property of any kind or nature, or any interest in real or personal property, for carrying out the authorized purposes of the regional authority.

(5) A pledge made under subsection (4) must be at the discretion of the legislative body and may be subject to an agreement providing for terms and conditions of the pledge and for repayment of any amount paid under the pledge as the regional authority and the local government determine to be necessary and advisable consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(6) An agreement by an authority to repay an advance made under this section and any obligation incurred by the regional authority under the agreement is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(7) For the purpose of more effectively managing its debt service, a regional authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance

of obligations or other evidences of indebtedness or in connection with its then outstanding obligations or other evidences of indebtedness. The authority may create a reserve fund for the payment of the interest rate exchange or swap, hedge, or similar agreement.

(8) An agreement entered into under this section must comply with all of the following requirements:

(a) The agreement is not a debt of the regional authority entering into the agreement for any statutory debt limitation purpose.

(b) The agreement is payable from general funds of the regional authority or, subject to any existing contracts, from any available money or revenue sources, including revenues that are specified by the agreement, securing the obligation or evidence of indebtedness in connection with the agreement.

(9) Notwithstanding anything in this chapter or any other law to the contrary, all ordinances, resolutions, and other proceedings of the local government with respect to any outstanding bonds, notes, or evidences of indebtedness or liability assumed by a regional authority under this chapter constitute a contract between the regional authority and the holders of the bonds, notes, or evidences of indebtedness or liability and must have their provisions enforceable against the regional authority or any or all of its successors or assigns, by mandamus or any other appropriate action or proceeding in law or in equity in any court of competent jurisdiction in accordance with law.

(10) Bonds, notes, or evidences of indebtedness or liability that are assumed by a regional authority under this chapter are payable solely from and secured solely by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other proceedings of the local government.

(11) This chapter and any other law do not relieve a regional authority from any bonded or other debt or liability lawfully contracted by the local government with respect to the airport and outstanding on the effective date of the transfer of the operational jurisdiction over the airport to the regional authority.

(12) A regional authority shall not take any action to impair the rights or remedies of the holders of the bonds or other obligations of the local government that owns the airport that were lawfully issued before the transfer of operational jurisdiction of the airport to the regional authority.

(13) Beginning on the approval date, trustees, paying agents, and registrars for any obligation of the local government that has been assumed by the regional authority under section 144 shall perform all of their duties and obligations and provide all notices related to the obligations as if the regional authority were the issuer of the obligations. The trustees, paying agents, and registrars shall care for and consider all revenues and money pledged to secure obligations of the local government that have been assumed by the regional authority under section 144 as revenues and money of the regional authority. The regional authority shall indemnify and hold harmless the trustees, paying agents, and registrars from liability incurred in compliance with this subsection.

Sec. 149. The effectuation of the authorized purposes of a regional authority must be in all respects for the benefit of the people of the region the airport serves and in order to meet present and future state and regional needs with respect to the provision of adequate, safe, and efficient airport facilities and services to the public and to promote the economic development and well-being of this state. By performing an essential governmental function, the regional authority is not required to pay taxes or assessments of any kind or nature whatsoever on any property required or used for airport or airport facility purposes or on any rates, fees, rentals, receipts, or income at any time received by it.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor