

AERONAUTICS CODE OF THE STATE OF MICHIGAN (EXCERPT)
Act 327 of 1945

259.116 Authority as public body corporate; powers; personal liability; transfer of operational jurisdiction; indemnification for local government with civil claim; imposition of fees or charges; airport revenues, facilities, or assets as security; prohibited actions; completion of airport or facility project; preparation, submission, and administration of grants; custodian of funds.

Sec. 116.

(1) An authority is a public body corporate with the following powers:

(a) An authority may adopt a corporate seal.

(b) An authority may sue or be sued in any court of the state.

(c) An authority has the power and duty of planning, promoting, extending, maintaining, acquiring, purchasing, constructing, improving, repairing, enlarging, and operating all airports and airport facilities under the operational jurisdiction of or owned by the authority.

(d) An authority has the power to assume and perform the obligations and the covenants related to the airport that are contained in an agreement or other document between or by the local government that owns the airport for which operational jurisdiction has been transferred to the authority pursuant to this chapter and the state or the federal aviation administration relative to grants for the airport or airport facilities.

(e) An authority may take by grant, purchase, devise, or lease, or by the exercise of the right of eminent domain, or otherwise acquire and hold, real and personal property, in fee simple or any lesser interest or easement, as an authority may deem necessary either for the construction of any airport facilities or for the efficient operation or for the extension of any airport facilities acquired or constructed or to be constructed under this chapter, and, except as otherwise provided by this act, to hold in its name, lease, and dispose of all real and personal property owned by or under the operational jurisdiction of the authority. If land is acquired by condemnation, the provisions of the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.76, or any successor statute, shall be adopted and used for the purpose of instituting and prosecuting the condemnation proceedings. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. The acquisition of any land by an authority for an airport or airport facilities in furtherance of the purposes of the authority, and the exercise of any other powers of the authority, are hereby declared as a matter of legislative determination to be public, governmental and municipal functions, purposes and uses exercised for a public purpose, and matters of public necessity.

(f) An authority may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter with any department or agency of the United States, with any state or local governmental agency, or with any other person, public or private, upon those terms and conditions acceptable to the authority consistent with section 114(6).

(g) An authority has the exclusive responsibility to study and plan any improvements, expansion, or enhancements that affect the airport.

(h) An authority may 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.

(i) An authority is responsible 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.

(j) An authority may act as a sponsor and submit requests for, accept, and be responsible to perform all of the assurances associated with accepting grants from the federal aviation administration or any other agency of the United States or of this state, with respect to the airport under the operational jurisdiction of the authority, and to perform the duties and responsibilities previously assumed by the local government that owns the airport under the operational jurisdiction of the authority by virtue of its acceptance of grants from the federal aviation administration or any other agency of the United States or this state.

(k) An authority may enter into agreements to use the facilities or services of the state, any subdivision or department of the state, any county or municipality, or the federal government or any agency of the federal government as necessary or desirable to accomplish the purposes of this chapter for that consideration or pursuant to that cost allocation formula that may be acceptable to the authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other 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.

(l) An authority may allow the state, any subdivision or department of the state, any county or municipality, or the federal government or any agency of the federal government to utilize airport facilities or the services of the authority as necessary or desirable to accomplish the purposes of this chapter, for consideration acceptable to the authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(m) An authority may 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 owned by the authority or under its operational jurisdiction. The authority may establish civil and criminal penalties for the violation of rules, regulations, and ordinances authorized under this subdivision to the same extent as the local government that owns the airport.

(n) An authority may enter into exclusive or nonexclusive contracts, leases, franchises, or other arrangements with any person or persons for terms not exceeding 50 years, for granting the privilege of using or improving, or having access to the airport or any airport facility, or any portions of the airport or the authority's 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 any other agency of the United States or this state.

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

(p) Subject to section 119, an authority may 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 authority shall have the full police powers and the authority of peace officers within the areas over which the 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 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 summons, make arrests, and initiate criminal proceedings. An authority is responsible for all actions of its officers committed under color of their official position and authority.

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

(r) An authority may invest money of the 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) Except as otherwise prohibited by this chapter, an authority shall have all the powers of a political subdivision under this act, but shall not levy or impose a tax or special assessment.

(t) An authority may exercise its powers and duties under this chapter notwithstanding any charter provision, ordinance, resolution, contract, regulation, or rule of a local government to the contrary. This subdivision does not apply to a contract entered into by a local government after the authority is created if the contract also has been approved or ratified by the authority. Nothing in this chapter shall be construed to limit the exercise of the powers of a local government in which an airport is located to zone property under the city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600, or to engage in land planning under 1931 PA 285, MCL 125.31 to 125.45, with respect to property that is not part of the airport.

(u) An authority may fix, charge, and collect rates, fees, rentals, and charges within and for the use and operation of the airport or airports under the operational jurisdiction of the authority.

(2) A member of the board or an officer, appointee, or employee of the authority shall not be subject to personal liability when acting in good faith within the scope of his or her authority or on account of liability of the authority, and the board may defend and indemnify a member of the board or an officer, appointee, or employee of the authority against liability arising out of the discharge of his or her official duties. An authority may indemnify and procure insurance indemnifying members of the board and other officers and employees of the authority from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the 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 authority. The 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 authority, whether or not the authority would have the power to indemnify the person against that liability under this subsection. An authority, pursuant to bylaw, contract, agreement, or resolution of its board, may obligate itself in advance to defend and indemnify persons.

(3) An authority shall indemnify and hold harmless the local government that owns the airport over which operational jurisdiction has been transferred to the authority 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 which was pending at the time of, or which had been incurred prior to, the transfer of operational jurisdiction of the airport to the authority.

(4) Notwithstanding any other provision of law to the contrary, an authority does not have the power to impose or levy taxes, except the authority has the power to impose fees or charges permitted by federal law.

(5) Unless an authority obtains the approval of the legislative body of the local government that owns the airport over which operational jurisdiction has been transferred to the authority pursuant to section 117, the authority shall not incur any indebtedness pledging, on a parity or 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.

(6) Upon the creation or incorporation of an authority under this chapter, the local government that owns the airport over which operational jurisdiction may be transferred pursuant to section 117 shall not pledge airport facilities or assets to secure any instrument of indebtedness except to secure airport revenue bonds issued for airport capital improvement projects after the creation or incorporation of the authority and prior to the approval date.

(7) An authority shall not take any action contrary to obligations assumed or entered into under 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 federal law, regulations, and assurances associated with the state or federal government. A local government, or an official of the local government acting in an official capacity, shall take no action, including, but not limited to, action pursuant to charter provision, ordinance, resolution, contract, regulation, or rule, to impede the exercise of powers or duties under this chapter.

(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 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 any other agency of the United States or this state.

(10) The authority to which operational jurisdiction for an airport is transferred shall be the agent of a local government for the preparation, submission, and administration of all state or federal grants pending as of the approval date. The authority shall also be the custodian of all funds received or to be received by the local government or the authority for the projects for which the grants were awarded.

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