

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

259.114 Meetings; frequency; special meeting; system of accounts; reports; bond; audit committee; appointment; meetings; duty to recommend 3 independent certified public accounting firms; selection; contract terms and conditions; appointment and compensation of chief executive officer; duties and responsibilities; power and authority; contracting policies and procedures; conflicts of interest; ethics manual; airport noise and fumes mitigation.

Sec. 114.

(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 per year. The board chairperson shall call a special meeting upon request of 3 members of the board in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall keep a written or printed record of each meeting, which record and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) A board shall provide for a system of accounts to conform to a uniform system required by law and for the auditing at least once a year of the accounts of the authority by an independent certified public accountant selected by the audit committee pursuant to subsection (3). A board shall meet any and all auditing or financial reporting requirements imposed by law and shall file a copy of its annual audit with the department and with the clerk of the house of representatives and the secretary of the senate. An authority shall provide the necessary reports to the local government that owns the airport over which operational jurisdiction has been transferred in a timely manner in order for the local government to be able to comply with the reporting requirements of the government finance officers association of the United States and Canada. A board shall require of the chief financial officer and chief executive officer of the authority a suitable bond of not less than \$100,000.00 by a responsible bonding company, and the cost of the premium of the bond shall be paid by the authority.

(3) A board appointed under section 111(3) shall appoint an audit committee consisting of 3 members of the board. With respect to boards appointed pursuant to section 111(2), the board shall have a 3-member audit committee with each appointing entity represented on the board designating 1 board member appointee to serve on the audit committee. The audit committee shall hold its first meeting within 60 days after the creation or incorporation of the authority under this chapter. A majority of members appointed and designated as audit committee members by an appointing entity under this subsection may conduct the business of the committee. The audit committee shall meet not less than 4 times each year with the chief financial officer, the chief executive officer of the authority, and the authority's independent public auditors to review the reports related to the financial condition, operations, performance, and management of the authority and airport including, but not limited to, all contractors and subcontractors, and may also order special investigations or audits, the cost of which shall be reimbursed by the authority. The audit committee shall also review the activities and reports of the internal auditor of the authority who shall be appointed by the chief executive officer of the authority. The audit committee of a board appointed pursuant to section 111(2) shall once every 2 years, recommend 3 independent certified public accounting firms that, in the judgment of the audit committee, possess sufficient resources and qualifications to conduct annual financial audits of the accounts of the authority. Not less than 90 days prior to the first full fiscal year of the authority and the last fiscal year of each subsequent contract period for which financial audits will be conducted under section 114(2), the 3 recommendations of the audit committee shall be presented to the legislative body of the local government that owns the airport over which operational jurisdiction has been transferred pursuant to this chapter. From the 3 recommendations of the audit committee, the legislative body of the local government may select, not more than 30 days after receipt of the recommendations of the audit committee, the independent certified public accounting firm with whom the authority shall execute an agreement to conduct annual financial audits for the succeeding 2 fiscal years of the accounts of the authority. If the legislative body does not select 1 of the recommended independent certified public accounting firms to conduct annual financial audits for the next 2 fiscal years of the authority within 30 days after receipt of the recommendations of the audit committee, the audit committee shall have the sole power to select the independent certified public accounting firm with whom the authority shall execute an agreement to conduct annual financial audits of the accounts of the authority for the next 2 fiscal years. The terms and conditions of a contract to be entered into with the independent certified public accounting firm selected by the legislative body of the local government shall be exclusively established by the authority. The legislative body of the local government shall not have the right or power to modify any proposed terms and conditions of a contract between the authority and an independent certified public accounting firm recommended by the audit committee. Neither the legislative body nor any member of the legislative body of the local government shall impose any requirement, restriction or condition upon, or solicit any agreement or

contribution from, the independent certified public accounting firm or any member or employee of the independent certified public accounting firm, selected or considered by the legislative body of the local government. No charter provision or resolution of the local government shall contradict, supplement, or expand this subsection. A person may not prevent or prohibit the internal auditor or the audit committee from carrying out or completing any audit or investigation. The internal auditor and members of the audit committee shall be protected under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(4) A board shall appoint and fix the compensation of a chief executive officer of the authority by a vote of not less than the majority of the members of the board then serving. The board shall prescribe those duties and responsibilities of the chief executive officer of the authority that are in addition to the duties and responsibilities imposed upon the chief executive officer of the authority by this chapter. The chief executive officer of an authority shall serve at the pleasure of the board and the board may remove or discharge the chief executive officer of the authority by a vote of not less than the majority of the members of the board then serving. The chief executive officer of an authority shall supervise, and be 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 approved by the board.

(c) The negotiation and establishment of compensation and other terms and conditions of employment for employees of the authority.

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

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

(f) The appointment of an internal auditor who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such an official, and who shall:

(i) Report to the chief executive officer and provide information to the board and its audit committee as required under this chapter.

(ii) Receive and investigate any allegations that false or misleading information was received in evaluating the authority's internal accounting and administrative control system.

(iii) Conduct and supervise audits relating to financial activities of the authority's operations.

(iv) Recommend policies for activities to protect the authority's assets and to prevent and detect fraud and abuse.

(v) Conduct other audit and investigative activities as assigned by the board, the audit committee, or the chief executive committee.

(vi) Adhere to appropriate professional and auditing standards.

(vii) Provide to the audit committee on an annual basis a report prepared by the internal auditor on the evaluation of the authority's internal accounting and administrative control system. For the period reviewed, the report shall include, but not be limited to, both of the following:

(A) A description of any material inadequacy or weakness discovered in connection with the evaluation of the authority's internal accounting and administrative control system and a time schedule for correcting the internal accounting and administrative control system, described in detail.

(B) A listing of each audit or investigation performed by the internal auditor pursuant to this chapter.

(5) The chief executive officer of an authority shall have the power and authority to execute and deliver, and to 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 authority. The chief executive officer of an authority shall have 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 of the authority not enumerated in this chapter. All actions of the chief executive officer of an authority shall be in conformance with the policies of the board and in compliance with law. The chief executive officer of an authority shall attend the meetings of the board and shall render to the board a regular report covering the activities and financial condition of the airport. If the chief executive officer of an authority is temporarily absent or disabled, the chief executive officer of the authority may designate a qualified person as acting chief executive officer of the authority to perform the duties of the office. If the chief executive officer of an authority fails or is unable to designate an acting chief executive officer of the authority, the board shall designate an acting chief executive officer of the authority for the period of absence or disability of the chief executive officer of the authority. The chief executive officer of the authority shall furnish the board with information or reports governing the operation of the airport as the board requires.

(6) The authority shall establish contracting policies and procedures providing for all of the following:

(a) Except for the negotiated construction contracts permitted under this subdivision, a contract shall not be awarded by an authority or the chief executive officer of the authority for the construction, repair, remodeling, or demolition of an airport facility unless the contract is let pursuant to a procedure that requires a competitive bidding. A negotiated construction contract shall not be required to be let by competitive bidding if the board or the chief executive officer of the authority with delegated authority to enter into contracts determines that any of the following apply:

(i) The negotiated contract amount is less than \$50,000.00. However, if the contract amount, including change orders, subsequently exceeds \$50,000.00, the authority shall detail, in writing, the reasons why the contract amount exceeded \$50,000.00.

(ii) As determined in writing by the board or the chief executive officer with delegated authority to enter into contracts, the contract is for emergency repair or construction necessitated by a sudden, unforeseen occurrence or situation of a serious and urgent nature and is not for convenience or expediency.

(iii) As determined in writing by the board or the chief executive officer with delegated authority to enter into contracts, the repair or construction is necessary to ensure passenger safety or otherwise protect life or property.

(b) The authority shall establish policies and procedures for hiring professional service contractors.

(c) The authority shall utilize competitive bidding for all purchases and all other contracts unless the board, or, if authorized by the board to approve procurements, the chief executive officer of the authority, determines and details in writing the reason that competitive solicitation of bids or proposals is not appropriate, that procurement by competitive bids is not practicable to efficiently and effectively meet the authority's needs, or that another procurement method is in the public's best interests.

(7) The authority may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased. The authority may enter into a cooperative purchasing agreement with the state or other public entities for the purchase of goods, including, but not limited to, recycled goods, and services necessary for the authority.

(8) The chief executive officer of an authority shall comply with all federal and state contracting requirements pertaining to disadvantaged business enterprises, minority business enterprises, and other targeted business enterprises and shall seek to ensure maximum participation of disadvantaged business enterprises, minority business enterprises, and other targeted business enterprises in contracting opportunities with the authority.

(9) Members of the board and officers, appointees, and employees of the authority are public servants under 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. The board shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The board shall require that a member of the board or a chief executive officer or chief financial officer who has a direct interest in any matter before the authority disclose the member's or officer's interest and any reasons reasonably known to the member of the board or officer why the transaction may not be in the best interest of the public or the authority before the board takes any action with respect to the matter. The disclosure shall become part of the record of an authority's proceedings.

(10) An authority shall establish an ethics manual governing the conducting of airport business and the conduct of airport employees. An 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 authority to preclude the opportunity for and the occurrence of transactions by the authority that would create a conflict of interest involving members of the board and employees of the authority. At a minimum, these policies shall include compliance by each member of the board and employees of the authority who regularly exercise significant discretion over the award and management of authority procurements with policies governing all of the following:

(a) Immediate disclosure of the existence and nature of any financial interest that would reasonably be expected to create a conflict of interest.

(b) Withdrawal by an employee or member from participation in or discussion or evaluation of any recommendation or decision involving an authority procurement that would reasonably be expected to create a conflict of interest for that employee or member.

(11) An authority shall work collaboratively with appropriate local governmental units in the implementation of any federally sanctioned and funded programs for the mitigation of aircraft noise and fuel fumes.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002