

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 680

An Act to create the Clarksville-Boydton Airport Commission.

[S 1113]

Approved March 23, 2005

Be it enacted by the General Assembly of Virginia:

1.

Clarksville-Boydton Airport Commission.

§ 1. *If the governing bodies of the towns of Clarksville and Boydton shall by resolution declare that there is a need for an airport commission to be created for the purpose of establishing and operating one or more airports or landing fields for all such political subdivisions, an airport commission, to be known as "The Clarksville-Boydton Airport Commission," shall thereupon exist for the towns and shall exercise its powers and functions therein.*

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of The Clarksville-Boydton Airport Commission, the airport commission shall be conclusively deemed to have become created as a body corporate, and to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body of each of the towns creating the airport commission declaring that there is need for an airport commission and that it unites with the other political subdivision in its creation. A copy of the resolution, duly certified by the clerk of the governing body of the town which adopted it, shall be admissible in evidence in any suit, action, or proceeding.

§ 2. *The Clarksville-Boydton Airport Commission, hereinafter referred to as the "Commission," shall consist of members from the participating towns, the membership being composed of five members appointed by the Town of Clarksville and two members by the Town of Boydton. Each member shall be appointed by the governing bodies thereof. Original appointments of members shall be for terms as follows: from the Town of Clarksville, one member for two years, two members each for three and four years; from the Town of Boydton, one member for one year and one member for two years. Thereafter all appointments shall be for three-year terms, except appointments to fill vacancies which shall be for the unexpired terms.*

The governing body appointing any member may remove that member at any time and appoint his successor. The Commission shall have power to elect its chairman and to adopt rules and regulations for its own procedures and government. The members of the Commission so appointed shall constitute the Commission, and the powers of such Commission shall be vested in and exercised by the members in office from time to time. A majority of the members in office shall constitute a quorum.

§ 3. *The Commission established hereunder shall have all powers necessary or convenient to carry out the general purposes of this act, including the following powers in addition to others herein granted:*

A. To sue and be sued; to adopt a seal and alter the same at pleasure; to have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

B. To employ technical experts and other officers, agents, and employees as it may require, and to fix their qualifications and duties, and to fix their compensation within the limits of available funds.

C. To accept gifts and make application for and receive grants from the Commonwealth of Virginia or any political subdivision thereof, and from the United States and any of its agencies.

D. To acquire within the territorial limits of the region for which it is formed, by purchase, lease, gift, condemnation or otherwise, whatever land may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining, and operating one or more airports or landing fields.

E. To acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate the use of any airports, air landing fields, structures, air navigation facilities, and other property incidental thereto, within the area for which it is created; provided, however, that no such airport shall be established or operated without the permission of the Virginia Department of Aviation.

F. To construct, install, maintain, and operate facilities for the servicing of aircraft, and for the accommodation of cargo, freight, mail, express, etc., and comfort of air travelers, and to purchase and sell equipment and supplies as an incident to the operation of its airport facilities.

G. To determine rates and charges for the use of its airport and other facilities.

H. To enforce all rules, regulations, and statutes relating to its airports, including airport zoning regulations.

I. To exercise within its area such powers and authority with respect to airports and air navigation facilities as may be conferred by law upon the governing bodies of the towns of the Commonwealth.

J. To make and enforce rules and regulations for the management and regulation of its business and affairs and for the use, maintenance, and operation of its facilities and properties.

K. To engage directly or through its agents or employees in the operation for profit of concessions in connection with its airports or other facilities, including the sale of airplanes and aircraft fuel, or to grant such privileges and concessions to others.

L. To comply with the provisions of the laws of the United States and the Commonwealth of Virginia and any rules and regulations made thereunder for the expenditure of state or federal moneys in connection with airports, landing fields, and air navigation facilities, and to accept, receive, and receipt for federal moneys granted the commission, or granted any of the political subdivisions by which it is formed, for airport purposes.

§ 4. The Commission established hereunder is hereby granted full power to exercise within its area the right of eminent domain in the acquisition of any lands, easements and privileges that are necessary for airport and landing field purposes, including the right to acquire, by eminent domain, aviation easements over lands or water outside the boundaries of its airport or landing fields where necessary or desirable in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport and landing fields even though such aviation easement may be inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation, and renewal of any structure or any tree or other vegetation standing or growing on the land at the time of acquisition; provided, however, that the power of eminent domain shall not extend to the taking of any radio or television towers or installation in existence on the effective date of this act. Proceedings for the acquisition of land, easements, and privileges by condemnation may be instituted and conducted in the name of the Commission, and the procedure shall be the same as in the acquisition of land by condemnation proceedings instituted by councils of towns; provided, that the provisions of § 25.1-102 of the Code of Virginia, shall apply to any property owned by a corporation possessing the power of eminent domain that may be sought to be taken by condemnation.

§ 5. The towns for which the Commission is formed are hereby authorized to appropriate to the Commission from available funds, or from funds provided for the purpose by bond issues, such funds as may be necessary for the acquisition, construction, maintenance, and operation of airports, air landing fields, and other air navigation facilities. The basis of financial participation by the towns shall be determined by agreement between their governing bodies.

§ 6. The Commission shall prepare annually and submit to the governing bodies of the respective towns for which it is formed for their approval, a budget showing the estimated revenues it may reasonably expect to receive for such year, and its estimated expenses for all purposes for such period. After the approval of such budget, the Commission shall be limited in its expenditures for such year to the estimated expenses shown therein, and shall not commit the participating subdivisions beyond appropriations actually made. If the estimated expenditures exceed the estimated revenue from the operation of the Commission for such year the governing bodies of the participating local subdivisions may appropriate, in any amount the particular town determines it can contribute, the funds necessary to supply the deficiency. If the actual revenue received shall be less than the estimated revenue as approved in the budget, the governing bodies of the participating local subdivisions may appropriate, in the same manner, the funds necessary to supply the deficiency.

§ 7. If the funds received by the Commission in any year including money appropriated for its use by the participating subdivisions, shall exceed its expenditures for such year, the surplus shall be set aside in a separate fund for capital improvements and extensions. Such fund shall be used for this purpose only with the approval of both the participating subdivisions. Whenever such surplus fund shall amount to \$100,000, any additional revenue received in any year in excess of operating costs shall be applied towards repaying the participating towns' contributions to the Commission in amounts proportionate to each town's financial interest in the Commission. The financial interest of a town shall consist of the proportionate share of the total financial contributions, including those made for capital outlay and for any other reason whatsoever, each participating town has made to the Commission. Thereafter any profits derived from the operations of the Commission shall be distributed to the participating subdivisions in proportion to their financial interest in the Commission.

§ 8. The Commission shall be an independent body corporate, invested with the rights, powers, and authority and charged with the duties set forth in this act, and the political subdivisions which created it shall not be responsible for its acts. No pecuniary liability of any kind shall be imposed upon any town creating the Commission because of any act, agreement, contract, tort, malfeasance or misfeasance by or on the part of the Commission or any member thereof, or its agents, servants or employees, except as otherwise provided in this act with respect to contracts and agreements between the Commission and either such town.

§ 9. Except in cases of emergency, all contracts of more than \$5,000 that the Commission may let for construction or materials shall be let after public advertising for at least 30 days, stating the place where bidders may examine the plans and specifications and the time and place where bids for such work or materials will be opened. Reasonable deposits may be required of all bidders, and the contract

shall be let to the lowest responsible bidder, who shall give bond or other security for the faithful performance of the contract.

§ 10. No member, agent, or employee of the Commission shall contract with the Commission or be interested, either directly or indirectly, in any contract with the Commission, or in the sale of any property to the Commission.

§ 11. The Commission shall keep and preserve complete records of its operations, dealings, and transactions, which records shall be open to inspection by the participating political subdivisions at all times. It shall make reports to the subdivisions annually and at such other times as they may require.

§ 12. Either town creating the Commission may withdraw therefrom upon giving one year's notice to the action, due regard being had for existing contracts and obligations. Upon the cessation of its activities all of the assets of the Commission shall be distributed to the towns participating therein at the time of liquidation in the proportion equal to their financial interest in the Commission as defined in § 7 herein.

§ 13. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 14. The provisions of this act and all rules and regulations adopted hereunder shall not apply to any airport, air landing field, structure, air navigation facilities and other property incidental thereto, created or set aside for such purposes prior to the effective date of this act.