~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE AMENDMENT AMENDED AND ADOPTED

June 5, 2012

**H. 3918**

Introduced by Rep. White

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Read the first time March 6, 2012.

**A** **BILL**

TO AMEND CHAPTER 1, TITLE 55, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION OF THE DIVISION OF AERONAUTICS WITHIN THE DEPARTMENT OF COMMERCE, SO AS TO MOVE THE FUNCTIONS, DUTIES, AND RESPONSIBILITIES OF THE DIVISION OF AERONAUTICS TO THE DEPARTMENT OF TRANSPORTATION, TO REVISE CERTAIN PROVISIONS RELATING TO THE OPERATION OF INTRASTATE SCHEDULED AIRLINE SERVICE, COUNTY AVIATION COMMISSIONS, THE USE OF STATE‑OWNED AIRCRAFT, AND THE USE OF ALCOHOLIC BEVERAGES BY FLIGHT CREW MEMBERS, TO MAKE TECHNICAL CHANGES, AND TO REVISE CERTAIN PENALTIES; TO AMEND CHAPTER 3, TITLE 55, RELATING TO THE UNIFORM STATE LAWS FOR AERONAUTICS, SO AS TO MAKE TECHNICAL CHANGES, REVISE CERTAIN PROVISIONS RELATING TO THE DEFINITION OF VARIOUS FORMS OF AIRCRAFT, THE OWNERSHIP OF AIRSPACE, THE LANDING OF AN AIRCRAFT ON LANDS OR WATERS, TO PROVIDE THAT IT IS ILLEGAL TO POINT, AIM, OR DISCHARGE A LASER DEVICE AT CERTAIN AIRCRAFT, AND PROVIDE PENALTIES; TO AMEND CHAPTER 5, TITLE 55, RELATING TO THE UNIFORM STATE AERONAUTICAL REGULATORY LAW, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION THAT CONTAINS VARIOUS TERMS AND THEIR DEFINITIONS, TO DELETE THE PROVISION THAT REQUIRES THE STATE BUDGET AND CONTROL BOARD TO PROVIDE OFFICES FOR THE DIVISION OF AERONAUTICS, TO REVISE THE DIVISION’S RESPONSIBILITIES RELATING TO ITS REGULATION OF CERTAIN AIR NAVIGATION AND AIRPORT FACILITIES, THE CONSTRUCTION OF AIRPORTS, THE REPORTS IT FILES WITH THE FEDERAL AVIATION ADMINISTRATION, AND THE OPERATION OF THE DIVISION, TO PROVIDE PENALTIES FOR VIOLATIONS OF PROVISIONS OF THIS CHAPTER, AND TO REVISE PROVISIONS RELATING TO THE USE OF MONIES CONTAINED IN THE STATE AVIATION FUND; TO AMEND CHAPTER 9, TITLE 55, RELATING TO THE UNIFORM SOUTH CAROLINA AIRPORTS ACT, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT THIS CHAPTER ALSO APPLIES TO COUNTIES, AIRPORT COMMISSIONS, AND SPECIAL PURPOSE DISTRICTS, TO DELETE OBSOLETE TERMS, TO REVISE THE PROJECTS THAT MAY BE FUNDED FROM MONIES CONTAINED IN AIRPORT FACILITIES ACCOUNTS, AND TO PROVIDE FOR THE TERM “AIRPORT HAZARD” AND TO PROVIDE ITS DEFINITION AND THE REGULATION OF AN AIRPORT HAZARD; TO AMEND CHAPTER 11, TITLE 55, RELATING TO THE CREATION AND OPERATION OF CERTAIN AIRPORTS WITHIN THE STATE, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE CERTAIN OBSOLETE TERMS, TO REVISE THE PROCESS FOR THE MAKING OF CERTAIN CONTRACTS FOR THE CONSTRUCTION, ERECTION, MAINTENANCE, AND REPAIR OF CERTAIN AIRPORT FACILITIES TO ALLOW FOR THE SALE OF ALCOHOLIC BEVERAGES AT CERTAIN AIRPORT FACILITIES, TO REVISE CERTAIN PENALTIES, TO REVISE THE DEFINITION OF A QUORUM FOR A CERTAIN AIRPORT COMMISSION, TO EXPAND THE AUTHORITY OF CERTAIN AIRPORT COMMISSIONS TO ADOPT RULES AND PROMULGATE REGULATIONS, TO PROVIDE THAT IT IS UNLAWFUL TO ENGAGE IN CERTAIN ACTIVITIES UPON CERTAIN AIRPORT PROPERTY, TO DELETE THE TERM “SECRETARY” AND ITS DEFINITION, AND REPLACE IT WITH THE TERM “EXECUTIVE DIRECTOR” AND ITS DEFINITION AND TO MAKE TECHNICAL CHANGES; TO AMEND CHAPTER 13, TITLE 55, RELATING TO THE PROTECTION OF AIRPORTS AND AIRPORT PROPERTY, SO AS TO PROVIDE THAT THE DIVISION OF AERONAUTICS SHALL CREATE MAPS OF THE STATE’S PUBLIC USE AIRPORTS AND DISTRIBUTE THEM TO VARIOUS LOCAL GOVERNMENTAL AGENCIES FOR VARIOUS PURPOSES, AND TO DEFINE THE TERM “AIRPORT SAFETY ZONES”, TO PROVIDE THAT POLITICAL SUBDIVISIONS MAY ASSIST WITH THE PROTECTION OF AREAS THAT POSE HAZARDS TO AIR TRAFFIC, AND TO REVISE THE PENALTIES FOR VIOLATIONS OF THIS CHAPTER; TO AMEND CHAPTER 15, TITLE 55, RELATING TO RELOCATION ASSISTANCE, SO AS TO DELETE THE TERM “DEPARTMENT OF COMMERCE” AND REPLACE IT WITH THE TERM “DEPARTMENT OF TRANSPORTATION”, AND TO MAKE TECHNICAL CHANGES; TO AMEND CHAPTER 17, TITLE 55, RELATING TO REGIONAL AIRPORT DISTRICTS, SO AS TO REVISE THE PROVISION THAT REVISES THE TYPE OF AIR CARRIERS REGULATED BY THIS CHAPTER, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 13‑1‑20, RELATING TO CERTAIN RESPONSIBILITIES OF THE DEPARTMENT OF COMMERCE, SO AS TO DELETE ITS RESPONSIBILITY TO DEVELOP STATE PUBLIC AIRPORTS AND AN AIR TRANSPORTATION SYSTEM; TO AMEND SECTION 13‑1‑30, AS AMENDED, RELATING TO THE ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT OF COMMERCE, SO AS TO REVISE THE PROVISIONS RELATING TO THE DIVISION OF AERONAUTICS; TO AMEND SECTION 13‑1‑1000, AS AMENDED, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS, SO AS TO REVISE THE DEFINITION OF THE TERM “DEPARTMENT”; TO AMEND SECTION 13‑1‑1010, RELATING TO THE AERONAUTICS COMMISSION, SO AS TO PROVIDE THAT IT IS NO LONGER A DIVISION OF THE DEPARTMENT OF COMMERCE, BUT A DIVISION OF THE DEPARTMENT OF TRANSPORTATION; TO AMEND SECTIONS 57‑1‑20, 57‑1‑30, AND 57‑1‑450, ALL AS AMENDED, RELATING TO THE DUTIES, FUNCTIONS, AND RESPONSIBILITIES OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO PROVIDE THAT IT SHALL HAVE A DIVISION OF AERONAUTICS, OVERSEE THE SAFETY AND DEVELOPMENT OF THE STATE’S PUBLIC USE AIRPORTS, PROVIDE SAFE RELIABLE AIR TRANSPORTATION FOR STATE GOVERNMENT AND BUSINESS PROSPECTS, AND PROVIDE THAT ITS DIRECTOR MUST BE APPOINTED BY THE GOVERNOR; AND TO REPEAL CHAPTER 8, TITLE 55, RELATING TO THE UNIFORM AIRCRAFT FINANCIAL RESPONSIBILITY ACT.

Be it enacted by the General Assembly of the State of South Carolina:

Amend Title To Conform

SECTION 1. Chapter 1, Title 55 of the 1976 Code is amended to read:

“CHAPTER 1

General Provisions

Section 55‑1‑1. There is created a Division of Aeronautics within the ~~Department of Commerce which shall~~ South Carolina Budget and Control Board that shall be governed by the ~~Secretary of Commerce~~ Aeronautics Commission as provided in Chapter 1 ~~of~~, Title ~~13~~ 57.

Section 55‑1‑5. For the purposes of Chapters 1 through 9 ~~of~~, Title 55, the following words and terms are defined as follows:

~~(1)~~ ~~“Division”, unless otherwise indicated, means the Division of Aeronautics of the Department of Commerce.~~

~~(2)~~ ~~“Secretary”, unless otherwise indicated, means the executive and administrative head of the Department of Commerce or his designee.~~

~~(3)~~ ~~Notwithstanding any other provision of law, “ director” means the person or persons appointed by the Governor in accordance with Section 13‑1‑1080 and serving at the pleasure of the Aeronautics Commission to supervise and carry out the functions and duties of the Division of Aeronautics as provided for by law.~~

(1) ‘Aeronautics’ means the act or practice of the art and science of transportation by aircraft, of operation, construction, repair or maintenance of aircraft, airports, landing fields, landing strips or air navigation facilities or of air instruction. (2) ‘Aircraft’ means a device that is used or intended to be used for flight in the air.

(3) ‘Airman’ means a person who holds a pilot, flight instructor, flight engineer, or flight navigator certificate issued by the Federal Aviation Administration, including persons not holding these certificates but who are acting as a flight crew member or otherwise manipulating the controls of an aircraft while in flight or for the intended purpose of flight.

(4) ‘Airport’ means any area, private or public, either of land or water, which is used or which is made available for the landing and take‑off of aircraft, whether or not it provides facilities for the shelter, supply and repair of aircraft or for receiving or discharging passengers or cargo, and all appurtenant rights of ways; whether currently existing or hereafter established. The definition of an airport includes landing fields, heliports, seaplane ports, spaceports, and landing strips.

(5) ‘Airport Land Use Zones’ are areas where land uses incompatible with aircraft operations, including, but not limited to, lands affected by airport noise, Aviation Safety Zones, high density development near airports, or activities where normal takeoff, departure, approach, or landing profiles or criteria, are or would be adversely affected.

(6) ‘Airport Safety Zones’ are those lands and waters on or near a public use airport which include airport property and surrounding adjacent and contiguous properties where aircraft operations, including taxi, takeoff, landing, approach, arrival, and departure would be adversely affected as a result of:

(a) condition exists that interferes with, or has a reasonable potential to interfere with aircraft operations;

(b) a condition that poses an increased risk to aviation safety;

(c) the persistence of a condition such as an obstruction that would cause aircraft takeoff, landing, or approach criteria to be adversely impacted;

(d) the existence of a condition that would constitute a nuisance to aircraft operation; or

(e) planned or actual concentration of residential or commercial structures in close proximity to the flight path of arriving or departing aircraft.

(7) Notwithstanding another provision of law, ‘Aviation Fuel’ means gasoline and aviation jet fuel manufactured exclusively for use in airplanes and sold for these purposes.

(8) ‘Civil Aircraft’ means an aircraft other than a government aircraft having a civil airworthiness certificate issued by the Federal Aviation Administration.

(9) ‘Commission’ means the Aeronautics Commission which shall assist and oversee the operation of the division.

(10) ‘Division,’ unless otherwise indicated, means the Division of Aeronautics of the South Carolina Budget and Control Board.

(11) Notwithstanding another provision of law, ‘Executive Director’ means the person or persons appointed by the Governor in accordance with Section 13‑1‑1080 and serving at the pleasure of the Aeronautics Commission to supervise and carry out the functions and duties of the Division of Aeronautics as provided for by law.

(12) ‘Government aircraft’ means aircraft used only in the service of a government, or a political subdivision. It does not include any government‑owned aircraft engaged in carrying persons or property for commercial purposes.

(13) ‘Governmental entity’ means a county, municipality, or political subdivision of this State.

(14) ‘Operator’ means a person who is exercising actual physical control of an aircraft.

(15) ‘Owner’ means the following persons who may be legally responsible for the operation of an aircraft:

(a) a person who holds the legal title to an aircraft;

(b) a lessee of an aircraft;

(c) a conditional vendee, a trustee under a trust receipt, a mortgagor, or other person holding an aircraft subject to a security interest.

(16) ‘Passenger’ means a person in, on, or boarding an aircraft for the purpose of riding on it, or alighting there from following a flight or attempted flight on it.

(17) ‘Person’ means any individual, association, copartnership, firm, company, corporation or other association of individuals.

(18) ‘Public airport’ means an airport for public use, publicly owned and under control of a governmental or quasi‑governmental agency.

(19) ‘Public use airports’ means an airport open to the public without prior permission, regardless of ownership.

(20) ‘Restricted use airport’ means an airport where the owner prohibits or restricts public use.

(21) ‘Seaplane’ means an aircraft which is capable of landing and taking off on the water.

(22) ‘State’ means any state, the District of Columbia, any territory or possession of the United States and the Commonwealth of Puerto Rico.

Section 55‑1‑7. All fees and fines assessed by the division under this title must be deposited into the State Aviation Fund.

Section 55‑1‑10. No person transported by the owner or operator of an aircraft as his guest without payment for ~~such~~ this transportation shall have a cause of action for damages against ~~such~~ the aircraft, its owner or operator for injury, death, or loss in case of accident unless ~~such~~ the accident ~~shall have been~~ was intentional on the part of ~~such~~ the owner or operator or caused by his heedlessness or his reckless disregard of the rights of others.

Section 55‑1‑20. Section 55‑1‑10 shall not relieve a public carrier of responsibility for ~~any~~ injuries sustained by a passenger being transported by ~~such~~ the public carrier.

Section 55‑1‑30. It is unlawful to remove or damage an airport facility or equipment with malicious intent. A person violating the provisions of this section is guilty of a felony and, upon conviction, must be:

(1) fined not less than ~~one~~ ten thousand dollars or imprisoned not more than five years, or both;

(2) fined not less than ~~one~~ ten thousand dollars or imprisoned not more than ten years, or both, if injury results from malicious damage or removal of airport facilities or equipment;

(3) imprisoned not more than thirty years if death results from the malicious damage or removal of airport facilities or equipment.

This section shall not apply to damage that is neither malicious nor intentional to crushable materials, collapsible structures, or aircraft arresting systems that are designed to deform when used.

Section 55‑1‑40. (1) It is unlawful for ~~any~~ a person to enter ~~any~~ an aircraft or damage or remove ~~therefrom~~ from it any equipment or other property attached ~~thereto~~ to it, affined to or otherwise on or in an aircraft without the permission of the owner or a person authorized by the owner to grant such permission.

(2) The provisions of this section do not apply to any airport personnel or other persons while acting in an official capacity except when such capacity is used to accomplish an unlawful purpose.

(3) ~~Any~~ A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than ~~one~~ five thousand dollars nor more than ten thousand dollars or imprisoned not less than one year nor more than ten years.

(4) The provisions of this section are cumulative.

Section 55‑1‑50. It ~~shall be~~ is unlawful for ~~any~~ a person to land or cause to be landed any aircraft on or take off from a public highway in this State except in situations authorized by ~~the deputy director of the division~~ an authorized employee of the division, by law enforcement, or in an emergency or cautionary situation in which the safety of the aircraft is involved. In ~~any~~ a prosecution for violation ~~hereof~~ of this section, the burden of proving that ~~such~~ the emergency or cautionary situation existed shall be upon the person landing the aircraft on the highway or causing it to take off ~~therefrom~~ from it.

~~Any~~ A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than ~~five hundred~~ two thousand dollars or imprisoned for not more than sixty days.

Section 55‑1‑60. ~~Any person desiring to operate an intrastate scheduled airline service wherein a schedule of flights is to be posted or otherwise publicized or maintained shall apply to the division for a certificate to allow him to operate such service. Before any certificate shall be issued by the division the schedule of flights to be made by such service must be approved by the division and the equipment to be used by such airline service must also be approved. After the division issues a certificate to a person desiring to operate such airline service, the scheduled flights approved by the division must be commenced within ninety days of such certification.~~ Reserved

Section 55‑1‑70. ~~The division shall promulgate such rules and regulations as are necessary to govern the operation of any and all intrastate scheduled airline operations.~~ Reserved

Section 55‑1‑80. ~~(A)~~ ~~Any county aviation commission or like authority may be increased by two members, one of whom must be appointed by the House of Representatives’ delegation of the county and one of whom must be appointed by the Senatorial delegation of the county. The additional members shall serve terms of the same length as other members of the commission or like authority.~~

~~(B)~~ ~~Any county governing body who has the authority to appoint members to the aviation commission or like authority may add two members for terms as provided in this section.~~

~~(C)~~ ~~In counties that have two municipalities with a population in excess of fifty thousand persons according to the latest official United States Census, and the county has an aviation commission or like authority, then the mayors of such municipalities having a population in excess of the fifty thousand persons shall serve, ex officio, as members of the commission or authority.~~ Reserved

Section 55‑1‑90. ~~If a state‑owned aircraft is needed on a medical‑emergency basis by an individual other than a member of the General Assembly, the aircraft may be used upon the filing with the division or other agency of state government owning and operating the aircraft of an affidavit by a medical doctor that an emergency or a life‑saving situation exists with respect to the individual which would probably make waiting or the use of a commercial or nonstate‑owned aircraft or other transportation not in the best interest of the individual’s physical condition and upon the completion of all other records, forms, or paperwork as may be required. If the individual needing and using the state‑owned aircraft on a medical‑emergency basis has insurance which covers this transportation, an insurance claim must be filed by the insured individual or by any other person permitted or required to file the claim, and any reimbursement under any policy of insurance pertaining to this transportation must be paid to the State Treasurer, who must deposit the funds in the general fund of the State.~~ State‑owned aircraft may be used by State agencies, and other governmental bodies or political subdivisions within the state for matters pertinent to, and in the normal course of business for the governmental entities. Use of state aircraft by other governmental bodies or political subdivisions that are not a part of South Carolina State government must be accompanied by a written statement by a legislative sponsor or a sponsor from an agency of the State attesting to the need for one or more flight operations. The written statement must be in a manner acceptable to the division.

Nothing in this section shall prohibit the division from entering into agreements with a public hospital or medical center owned, operated, or supported in whole or in part by state funds for the purpose of transporting personnel or patients, whether on an emergency basis or otherwise, as long as payment is made, including any insurance proceeds, to the State Treasurer. All funds paid for use of state aircraft under this section must be deposited into the General Fund and credited to the division. The division may adopt rules and promulgate regulations governing this section.

Section 55‑1‑100. (A) It is unlawful for ~~any~~ a person to operate or act as a ~~flightcrew~~ flight crew member of ~~any~~ an aircraft in this State:

(1) within eight hours after the consumption of any alcoholic beverage;

(2) while under the influence of alcohol; or

(3) while using ~~any~~ an illegal drug or controlled substance that affects ~~his~~ the person’s faculties in ~~any way~~ a manner contrary to safety; or

(4) with four one‑hundredths of one percent or more by weight of alcohol in his blood at the time of the alleged violation.

(B) ~~Any~~ A person who operates or acts as a ~~flightcrew~~ flight crew member of ~~any~~ an aircraft in this State ~~is considered to have given~~ may consent to a chemical test of his breath for the purpose of determining the alcoholic content of his blood if arrested for violating the provisions of subsection (A). The test must be administered at the direction of a law enforcement officer who has apprehended a person while or after operating or acting as a ~~flightcrew~~ flight crew member of any aircraft in this State while under the influence of ~~intoxicating liquor~~ alcohol. The test must be administered by a person trained and certified by and using methods approved by the South Carolina Law Enforcement Division, using methods approved by the division. The arresting officer may not administer the test, and no test may be administered unless the defendant has been informed that he does not have to take the test. ~~Any~~ A person who refuses to submit to the test violates the provisions of this subsection and~~, upon conviction, must be punished by a fine of two hundred dollars or imprisonment for not less than forty‑eight hours nor more than thirty days, or both~~ is subject to a civil fine of two thousand dollars. The penalties provided for in this subsection are in addition to those provided for in subsection ~~(F)~~(E).

No person is required to submit to more than one test for any one offense for which he has been charged, and the test must be administered as soon as practicable without undue delay.

The person tested may have a physician, qualified technician, chemist, registered nurse, or other qualified person of his own choosing conduct a test or tests in addition to the test administered by the law enforcement officer. The failure or inability of the person tested to obtain an additional test does not preclude the admission of evidence relating to the test taken at the direction of the law enforcement agency or officer.

The arresting officer and the person conducting the test shall inform the person tested of his right to obtain an additional test, and the arresting officer or the person conducting the chemical test of the person apprehended promptly shall assist that person to contact a qualified person to conduct additional tests.

The division shall administer the provisions of this subsection and may make regulations as may be necessary to carry out its provisions. The Department of Health and Environmental Control and SLED shall cooperate with the division in carrying out its duties.

(C) In ~~any~~ a criminal prosecution for the violation of this section, the amount of alcohol in the defendant’s blood at the time of the alleged violation, as shown by chemical analysis of the defendant’s breath, is admissible as evidence.

The provisions of this subsection do not limit the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of ~~intoxicating liquor~~ alcohol. Nothing contained in this section prohibits the introduction of:

(1) the results of additional tests of the person’s breath or other bodily fluids;

(2) evidence that may corroborate or question the validity of the breath or bodily fluid test result including, but not limited to, evidence of:

(a) field sobriety tests;

(b) the amount of alcohol consumed by the person; and

(c) the person’s action while operating an aircraft;

(3) a videotape of the person’s conduct at the incident site and breath testing site taken pursuant to Section 56‑5‑2953 which is subject to redaction under the South Carolina Rules of Evidence; or

(4) any other evidence of the state of a person’s faculties to operate an aircraft which would call into question the results of a breath or bodily fluid test.

At trial, a person charged with a violation of this section is entitled to a jury instruction stating that the factors enumerated above and the totality of the evidence produced at trial may be used by the jury to determine guilt or innocence. A person charged with a violation of this section must be given notice of intent to prosecute under the provisions of this section at least fourteen days before his trial date.

(D) ~~Any person who is unconscious or otherwise in a condition rendering him incapable of refusal is considered not to have withdrawn the consent provided by subsection (B).~~

~~(E)~~ The person conducting the chemical test for the law enforcement officer shall record in writing the time of arrest, the time of the test, and the results of the test, a copy of which must be furnished to the person tested or his attorney prior to any trial or other proceedings in which the results of the test are used as evidence~~; and any~~. A person administering any additional test shall record in writing the time, type, and results of the test and promptly furnish a copy of the test to the arresting officer. A copy of the results of the test ~~must~~ may be furnished to the Federal Aviation Administration and the division by the arresting officer or the agency involved in the arrest.

~~(F)~~(E) ~~Any~~ A person who violates the provisions of subsection (A), upon conviction, must be punished by a fine of ~~five hundred~~ one thousand dollars or imprisonment for not less than forty‑eight hours ~~nor~~ or more than one year, or both.

~~(G)~~ ~~Any person who is convicted under the provisions of this section must be reported to the Federal Aviation Administration within ten days of conviction.~~

~~(H)~~(F) For the purposes of this section ~~flightcrew~~ flight crew member means a pilot, flight engineer, or flight navigator ~~assigned to~~ on duty or in an aircraft during flight time~~, and aircraft means any contrivance now known or invented, used, or designed in the future for navigation of or flight in the air~~.

Notwithstanding another provision of law, a person charged with a violation of this section has the right to compulsory process for obtaining witnesses, documents, or both, including, but not limited to, state employees charged with the maintenance of breath testing devices in this State and the administration of breath testing pursuant to this chapter. This process may be issued under the official signature of the magistrate, judge, clerk, or other officer of the court of competent jurisdiction. The term ‘documents’ includes, but is not limited to, a copy of the computer software program of breath testing devices. The portion of compulsory process provided for in this section that requires the attendance, at any administrative hearing or court proceeding, of state employees charged with the maintenance of breath testing devices in this State and the administration of breath testing pursuant to this article, takes effect once the compulsory process program at SLED is specifically, fully, and adequately funded.

In addition, at the time of arrest for a violation of this section, the arresting officer, in addition to other notice requirements, must inform the defendant of his right to all hearings provided by law to include those if a breath test is refused or taken with a result that would require license suspension. The arresting officer, if the defendant wishes to avail himself of any hearings, depending on the choices made or the breath test results obtained, must provide the defendant with the appropriate form to request the hearing. The defendant must acknowledge receipt of the notice requirements and receipt of the hearing form if a hearing is desired.”

SECTION 2. Chapter 3, Title 55 of the 1976 Code is amended to read:

“CHAPTER 3

~~UNIFORM~~ State Law for Aeronautics

Section 55‑3‑10.This chapter may be cited as the ~~Uniform~~ State Law for Aeronautics.

Section 55‑3‑20. ~~In this chapter, “aircraft” includes balloon, airplane, hydroplane and every other vehicle used for navigation through the air. A hydroplane, while at rest on water and while being operated on or immediately above water, shall be governed by the rules regarding water navigation; while being operated through the air otherwise than immediately above water, it shall be treated as an aircraft. “Aeronaut” includes aviator, pilot, balloonist and every other person having any part in the operation of aircraft while in flight. “Passenger” includes any person riding in an aircraft but having no part in its operation.~~ Reserved

Section 55‑3‑30. ~~Sovereignty in the space above the lands and waters of this State is declared to rest in the State, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this State.~~ Reserved

Section 55‑3‑40. ~~The ownership of the space above the lands and waters of this State is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in Section 55‑3‑50.~~ Reserved

Section 55‑3‑50. ~~Flight in aircraft over the lands and waters of this State is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner or unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath.~~ The landing of an aircraft on the lands or waters of another without his consent is unlawful, except in the case of a ~~forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft or the aeronaut shall be liable, as provided in Section 55‑3‑60~~ cautionary or emergency landing. This section shall not apply to landings on waters of the state or other navigable waters where the waters are normally open to the public or available for public use nor shall this section apply to landing at public use airports, or airports owned or operated by a governmental body or political subdivision. The owner or lessee of the aircraft or the airman is liable in accordance with applicable law for injury to a person or property caused by an emergency or precautionary landing made in accordance with this section.

Section 55‑3‑60. The owner of ~~every~~ an aircraft ~~which is~~ operated over the land or waters of this State is absolutely liable for ~~injuries~~ injury to persons or property on the land or water beneath the aircraft which is caused by ascent, descent or flight of the aircraft or the dropping or falling of ~~any~~ an object ~~therefrom~~ from an aircraft, whether ~~such~~ the owner was negligent or not, unless the injury is caused in whole or in part by the negligence of the person injured or of the owner or bailee of the property injured. If the aircraft is leased at the time of the injury to person or property both owner and lessee ~~shall be~~ is liable and they may be sued jointly or either or both of them may be sued separately. An ~~aeronaut~~ airman who is not the owner or lessee ~~shall be~~ is liable only for the consequences of his ~~own~~ negligence. The injured person or owner or bailee of the injured property shall have a lien next in priority to the lien for State and county taxes on the aircraft causing the injury to the extent of the damage caused by the aircraft or an object falling from it. A chattel mortgagee, conditional vendor or trustee under an equipment trust of ~~any~~ an aircraft out of possession shall not be ~~deemed~~ considered an owner or lessee within the provisions of this section. This section shall not apply to damage to airport property that is neither malicious nor intentional, nor shall this section apply to damage to crushable materials, collapsible structures, or aircraft arresting systems that are designed to deform when used.

Section 55‑3‑70. Subject to the provisions of Section 55‑1‑10, the liability of the owner of one aircraft to the owner of another aircraft, or to ~~aeronauts~~ an airman or passengers on either aircraft, for damage caused by collision on land or in the air ~~shall~~ must be determined by the rules of law applicable to torts on land.

Section 55‑3‑80. All crimes, torts and other wrongs committed by or against an ~~aeronaut~~ airman or passenger while in flight over this State ~~shall be~~ is governed by the laws of this State~~; and the~~. The question of whether damage occasioned by or to an aircraft while in flight over this State constitutes a tort, crime or other wrong by or against the owner of ~~such~~ the aircraft ~~shall~~ must be determined by the laws of this State.

Section 55‑3‑90. ~~All contractual and other legal relations entered into by aeronauts or passengers while in flight over this State shall have the same effect as if entered into on the land or water beneath.~~ Navigable waterways, which are available for use under the public trust doctrine, may be used for the landing, docking, and takeoff of seaplanes in accordance with this provision. This section does not authorize the use of seaplanes in a manner or location which would violate the property rights of another person.

During the landing, docking, and takeoff of a seaplane, its pilot shall comply with all applicable federal and state laws and aeronautical rules.

Seaplane takeoff, landing, and water operations must be done safely and in a manner which does not endanger other persons, watercraft, and property.

A seaplane shall not land, dock or takeoff on a waterway in a manner that would violate applicable laws, ordinances, and rules if done by a motorized watercraft, except that a seaplane is not required to comply with a statewide speed limit for watercraft while landing and taking off, if a higher speed is necessary for safe operation and is not in conflict with any other restrictions applicable to watercraft.

In no event shall the landing, docking, or takeoff of seaplanes be approved if the landing, docking, or takeoff would pose unreasonable risks to public health, safety, or property as determined by the division.

Section 55‑3‑100. ~~Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within this State, shall engage in trick or acrobatic flying or in any acrobatic feat or shall, except while in landing or taking off, fly at such a low level as to endanger the persons on the surface beneath or drop any object except loose water or loose sand ballast shall be guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars, or imprisonment for not more than thirty days, or both.~~ If the division determines that use of a waterway by a seaplane poses an unreasonable risk to public health, safety, or property, the division or commission may withdraw approval or limit use of the waterway or make the use of the waterway subject to conditions, after following criteria set forth in this section. If considered necessary to protect public health, safety or property, the division may issue an interim order restricting the use of a waterway by a seaplane pending completion of the procedures in this section. In determining if a waterway is suitable for seaplane use, the division shall consider the following criteria:

(1) the safety and general suitability of the waterway for seaplane use;

(2) the impact of seaplane use on the use and enjoyment of the waterway and adjacent properties by other persons;

(3) the availability of suitable alternative waterways for seaplane use;

(4) the public interest in fostering aviation and allowing the use of navigable waterways for aviation and other purposes;

(5) whether competing interests may be balanced by imposing limitations or conditions on use of the waterway by seaplanes; and

(6) any other factor which reasonably would be affected by a decision to allow seaplane use notwithstanding the local ordinance.

Section 55‑3‑110. ~~Any aeronaut~~ An airman or passenger who, while in flight within this State, shall intentionally kill or attempt to kill any birds or animals ~~shall be~~ is guilty of a misdemeanor and punishable by a fine of not more than ~~one hundred~~ two thousand dollars, or by imprisonment for not more than thirty days, or both.

Section 55‑3‑120. This chapter ~~shall~~ must be ~~so~~ interpreted and construed as to effectuate its general purpose ~~to make uniform the law of those states which enact substantially identical legislation and to harmonize, as far as possible, with Federal laws and regulations~~ of promoting aviation, aeronautics, aviation safety, and conforming and making consistent this State’s laws with federal law, and the laws of other states on the subject of aviation and aeronautics.

Section 55‑3‑130. The pointing, aiming, or discharge of a laser device at an aircraft in flight or on the ground while occupied is unlawful. A person who wilfully and maliciously discharges a laser at an aircraft, whether stopped, in motion or in flight, while occupied, is guilty of a misdemeanor punishable by imprisonment for not more than one year or by a fine of two thousand dollars, or both. For a second or subsequent violation of this section a person is guilty of a felony punishable and must be imprisoned for not more than three years, or fined not more than five thousand dollars, or both. This section does not apply to the conduct of laser development activity by or on behalf of the United States Armed Forces.

A person who, with the intent to interfere with the operation of an aircraft, wilfully shines a light or other bright device, of an intensity capable of impairing the operation of an aircraft, at an aircraft, must be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both.

As used in this section, ‘laser’ means a device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum, and when discharged exceeds one milliwatt continuous wave.”

SECTION 3. Chapter 5, Title 55 of the 1976 Code is amended to read:

“CHAPTER 5

~~UNIFORM~~ State Aeronautical Regulatory ~~LAW~~ Act

Section 55‑5‑10. This chapter may be cited as ‘The ~~Uniform~~ State Aeronautical Regulatory Act’.

Section 55‑5‑20. ~~When used in this chapter:~~

~~(1)~~ ~~“Aeronautics” means the act or practice of the art and science of transportation by aircraft, of operation, construction, repair or maintenance of aircraft, airports, landing fields, landing strips or air navigation facilities or of air instruction;~~

~~(2)~~ ~~“Aircraft” means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air;~~

~~(3)~~ ~~“Public aircraft” means an aircraft used exclusively in governmental service, including military and naval aircraft, or of any state or territory thereof;~~

~~(4)~~ ~~“Civil aircraft” means any aircraft other than a public aircraft;~~

~~(5)~~ ~~“Airport” means any area, either of land or water, which is used or which is made available for the landing and take‑off of aircraft, whether or not it provides facilities for the shelter, supply and repair of aircraft, and which meets the minimum requirements as to size, design, surface marking, equipment and management that may from time to time be provided by the division;~~

~~(6)~~ ~~“Landing strip” means an area, either of land or water, which is available for the landing and take‑off of aircraft having not less than one hundred feet of usable width and not less than one thousand feet of usable length, the use of which shall, except in case of emergency, be only as provided from time to time by the regulations of the division;~~

~~(7)~~ ~~“Person” means any individual, association, copartnership, firm, company, corporation or other association of individuals;~~

~~(8)~~ ~~“Air instruction” means the imparting of aeronautical information in any air school, flying club or by any aviation instructor;~~

~~(9)~~ ~~Any person engaged in giving instruction or offering to give instruction in aeronautics, either in flying or ground subjects, or both, for or without hire or reward and advertising, representing or holding himself out as giving or offering to give such instruction shall be termed and considered an “air school”;~~

~~(10)~~ ~~Any person other than an individual who, neither for profit nor reward, owns, leases or uses one or more aircraft for the purpose of instruction, pleasure or both, shall be termed and considered a “flying club”;~~

~~(11)~~ ~~“Aviation instructor” means any individual engaged in giving instruction, or offering to give instruction, in aeronautics, either in flying or ground subjects, or both, for or without hire or reward, without advertising such occupation, without calling his facilities an “air school” or anything equivalent thereto and without employing or using other instructors; and~~

~~(12)~~ ~~Notwithstanding any other provision of law, “aviation gasoline” means gasoline and aviation jet fuel manufactured exclusively for use in airplanes and sold for such purposes.~~ Reserved

Section 55‑5‑50. Notwithstanding ~~any other~~ another provision of law, the ~~Aeronautics Commission~~ division shall employ ~~a deputy~~ an executive director of aeronautics in accordance with the provision contained in Section 13‑1‑1050 and 13‑1‑1080 and ~~such~~ other employees ~~as~~ necessary for the proper transaction of the division’s business.

Section 55‑5‑60. ~~The State Budget and Control Board shall provide, as soon as practicable, suitable offices for the division in the city of Columbia, and the division may maintain offices in any other city in the State that the division may designate and may incur the necessary expense for the office furniture, stationery, printing, incidental expenses and other expenses necessary for the enforcement of this chapter and the general promotion of aeronautics within the State.~~ Reserved

Section 55‑5‑70. The division shall promote and foster air commerce within the State and the division shall have ~~supervision over~~ an interest in the maintenance and enhancement of the aeronautical activities and facilities within the State. ~~Such authority shall include supervision and control over all airports, landing fields, landing strips, air instruction, air parking, air beacons and all other air navigation facilities. Accordingly, the~~ The division ~~may prescribe such~~ shall adopt reasonable rules and promulgate regulations as it may deem necessary and advisable, in conjunction with Federal Aviation Administration regulations, for the public safety and for the promotion of aeronautics governing the designing, laying out, location, building, equipping, operation and use of all airports~~, landing fields or landing strips. The division may further prescribe such reasonable rules and regulations as it may deem necessary governing the curriculum, equipment, personnel and operation and management of all air instruction, for the purpose of protecting the health and safety of students receiving or to receive such instruction and insuring, so far as may be, the public safety through the proper training and instruction of student aviators. The division may further prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public safety and the safety of those engaged in aeronautics and for the promotion of aeronautics governing the establishment, location, maintenance and operation of all air markings, air beacons and other air navigation facilities. The division may further prescribe such reasonable air traffic rules and regulations as it shall deem necessary for public safety and the safety of those engaged in aeronautics and for the promotion of aeronautics; provided, however, that no rules or regulations prescribed by the division under the authority of this section shall be inconsistent with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder~~.

Section 55‑5‑71. It is unlawful for a restricted use airport, or other air navigation facility within three nautical miles of a public use facility to be used or operated without the written approval of the division. This approval must be based upon consideration of aviation safety, including a location that would constitute a collision or air traffic hazard or conflict with flight operations in the vicinity of a public use airport.

Section 55‑5‑72. Except as provided in this section, no airport open for public use shall be constructed in this State unless the master plan study, or airport layout plan, or the construction plans and specifications for such airport or landing strip have been approved in writing by the division. No additions shall be made to any existing airport or landing strip open for public use unless the master plan study or the construction plans and specifications for an airport or landing strip have been approved in writing by the division. This provision shall not apply to airports owned by private entities, or an airport which does not receive State funds.

Section 55‑5‑73. No state airport construction funding or funding from the State Aviation Fund shall be provided to an airport unless it has an airport layout plan and construction plan approved by, and on file with the division at the time the request for funding is made.

~~Section 55‑5‑75.~~  ~~From information obtained from the Federal Aviation Administration, the division quarterly shall furnish the respective county auditors of this State with a list of all aircraft registered in their county according to the records of the Federal Aviation Administration.~~

Section 55‑5‑80. ~~The division shall assist in the development of aviation and aviation facilities within the State for the purpose of safeguarding the interest of those engaged in all phases of the industry and of the general public and of promoting aeronautics.~~

~~The division may cooperate with any county or municipality in the establishment, maintenance and operation of airports, landing fields or emergency landing strips and may do so in cooperation with other states or with any federal agency.~~ (A) The division shall have a seal and shall adopt rules and promulgate regulations for its administration, not inconsistent, as it considers necessary. It may amend its rules and regulations and shall adopt reasonable rules and promulgate regulations as it considers necessary and advisable for the public safety and the safety of those engaged in aeronautics.

(B) The division shall enter into contracts or agreements with the Federal Aviation Administration to administer, and shall administer grant programs, maintenance programs, or other programs in the support of the state aeronautical system.

(C) The division shall operate a flight department including the purchase, operation, and maintenance of aircraft to support the transportation needs of the State, and may support and cooperate with other state agencies who own aircraft through maintenance and operations agreements.

(D) The division shall consult with the Federal Aviation Administration, persons involved in aeronautics and aeronautical activity, public airports, and airport governing boards as necessary for the purpose of enhancing the public safety and the safety of those engaged in aeronautics. The division may promulgate regulations to carry out this purpose. However, these regulation must not be inconsistent with federal law or regulations governing aeronautics.

(E) The division shall assist in the development of aviation and aviation facilities within the State for the purpose of safeguarding the interest of those engaged in all phases of the aviation industry and of the general public and of promoting aeronautics.

(F) The division may cooperate with any authority, county, or municipality in the establishment, maintenance and operation of airports, landing fields or emergency landing strips and may do so in cooperation with other states or with any federal agency.

(G) The division shall have the authority to partner with local governments, private entities, special purpose districts, or others to establish, own, operate, and maintain existing or future airports.

(H) The division may conduct inspections of aviation facilities for compliance with federal grants, or to assist in obtaining grants from federal agencies, or to ensure compliance with national building or fire codes, including premises and the buildings and other structures at airports, or at prospective airports or other air navigation facilities. In order to effectuate this purpose, the division shall cooperate with the local governing body of an airport and any state or municipal officer or agency that may have jurisdiction over the airport.

(I) The division may participate in and support the emergency management division air branch emergency support function.

(J) The division shall have the authority to review and approve airport master plans pursuant to Section 55‑5‑72.

(K) The division shall have the authority to take action to abate any imminent or foreseeable hazard to aviation safety at a public use airport in the State or in the vicinity of a public use airport when it can be shown that:

(1) a violation of this title or a violation of a federal, state, or local law, ordinance, regulation, or federally approved airport design criteria that relates to aviation safety has occurred;

(2) a condition exists that interferes with, or has a reasonable potential in the judgment of the division to interfere with aircraft operations;

(3) a condition poses an increased risk to aviation safety;

(4) the persistence of a condition would cause aircraft takeoff, landing, or approach criteria to be adversely impacted; or

(5) a condition exists that would constitute a nuisance to aircraft operation. These conditions may include, but are not limited to:

(a) obstructions such as towers, trees, or manmade structures;

(b) conditions that adversely affect FAA or industry criteria for safe approach, landing, takeoff and departure profiles;

(c) landfills or other activities that have the potential to attract a large number of birds;

(d) interference with airport markings, including lighting;

(e) light pollution, including off‑airport lighting;

(f) land uses that have a reasonable potential to interfere with aircraft operations, pose an increased risk to aviation safety, adversely affect aircraft takeoff, landing or approach criteria, or constitute a nuisance to aircraft operations; or

(g) interference with airport and aviation navigational equipment and facilities.

(L) Legal action may include the issuance of an order directing the abatement or removal of the hazard, an action in circuit court or the Administrative Law Court to enjoin the construction or maintenance of a hazard, or the removal and abatement of a hazard.

(M) Except in emergency situations, before taking legal action, the division shall cooperate with the airport sponsor and affected local governments with the objective of achieving a mutually agreeable solution. If necessary, the parties shall engage in alternative dispute resolution. The alternative dispute resolution must be between the governmental entity and the division and shall not involve any private parties.

(N) The division may promulgate regulations necessary to implement this section.

(O) The division and an affected local government shall have the ability to seek cost recovery for the actual costs in the removal or abatement of the hazard against the persons responsible for creating or maintaining an airport hazard that violates this section, or violates a federal, state, or local law, ordinance, regulation, or federally approved airport design criteria.

Section 55‑5‑86. ~~Notwithstanding any other provision of law, no airport or landing strip open for public use shall be constructed in this State unless the master plan study or the construction plans and specifications for such airport or landing strip have been approved by the division. No additions shall be made to any existing airport or landing strip open for public use unless the master plan study or the construction plans and specifications for such airport or landing strip have been approved by the division.~~ Reserved

Section 55‑5‑87. ~~No state airport construction funding shall be provided to any airport unless it has an airport layout plan approved by and on file with the division at the time the request for funding is made.~~ Reserved

Section 55‑5‑88. ~~The provisions of Sections 55‑5‑86 and 55‑5‑87 shall not apply to any airport or landing strip which does not receive state funds.~~ Reserved

Section 55‑5‑90. ~~The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that aircraft operating within this State should conform with respect to design, construction and airworthiness to the standards prescribed by the United States Government with respect to navigation of civil aircraft subject to its jurisdiction, it shall be unlawful for any person to operate, pilot or navigate, or cause or authorize to be operated, piloted or navigated, any aircraft within the State unless such aircraft has an appropriate effective license, issued by the government of the United States; provided, however, that this restriction shall not apply to public aircraft of the United States or of any state, territory or possession thereof or to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft; and provided, further, that the division may, in its discretion, waive this provision in the interest of a non‑passenger‑carrying flight solely for inspection or test purposes.~~ Reserved

Section 55‑5‑100. ~~The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that a person engaging within this State in navigating aircraft in any form of navigation shall have the qualifications necessary for obtaining and holding a pilot’s license issued by the government of the United States, it shall be unlawful for any person to pilot any aircraft in this State unless such person is the holder of a correct effective pilot’s license issued by the government of the United States; provided, however, that this restriction shall not apply to those persons operating public aircraft of the United States or public aircraft of any state, territory or possession thereof or operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.~~ Reserved

Section 55‑5‑110. ~~The certificate of the license required for pilots shall be kept in the personal possession of the licensee when he is operating aircraft within this State and must be presented for inspection upon the demand of any passenger, any peace officer of this State, any authorized official or employee of the division or any official manager or person in charge of any airport in this State upon which he shall land; or upon the reasonable request of any other person. The aircraft license must be carried in the aircraft at all times and must be conspicuously posted therein where it may be readily seen by passengers or inspectors; and the license must be presented for inspection upon the demand of any passenger, any peace officer of this State, any authorized official or employee of the division or any official, manager or person in charge of any airport in this State upon which it shall land; or upon the reasonable request of any other person.~~ In any criminal prosecution under any of the provisions of this chapter a defendant who relies for his justification upon a license of any kind shall have the burden of proving that he is properly licensed or is the possessor of a proper license, as the case may be, and the fact of ~~non‑issuance~~ nonissuance of such license may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that he has made diligent search in the records of his office and that from the records it appears that no such license was issued up to the date of the making of such certificate.

Section 55‑5‑120. ~~It shall be unlawful for any airport, landing field, air school, flying club, air beacon or other air navigation facility to be used or operated without the approval of the division. All proposed airports, landing fields, air schools, flying clubs, air beacons or other air navigation facilities shall first be approved by the division before they or any of them shall be used or operated. The division may issue a certificate of its approval in each case.~~ Reserved

Section 55‑5‑130. ~~No license, rule, order or regulation promulgated under the authority of this chapter shall apply to airports, landing fields, air beacons, air markings or other air navigation facilities owned or operated by the government of the United States, of the State or of any county or municipality of this State.~~ Reserved

Section 55‑5‑140. ~~In any case in which the division may deem it necessary it may order the closing of any airport or landing field or order any air school, flying club, air beacon or other air navigation facility to cease operations until it shall have complied with the requirements laid down by the division.~~ Reserved

Section 55‑5‑150. ~~The division shall have power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of this chapter and all accidents in aeronautics within this State. All hearings conducted by the division shall be open to the public. Each officer of the division designated by it to hold any inquiry, investigation or hearing shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas and compel the attendance and testimony of witnesses and the production of papers, books, and documents. In case of failure to comply with any subpoena or order issued under authority of this chapter the division, or its authorized representative, may invoke the aid of any circuit court in this State. The court may thereupon order the witness to comply with the requirements of the subpoena or order to give evidence touching the matter in question. Any failure to obey the order of the court may be punished by the court as a contempt thereof.~~ (A) The division may close, order closure, or approve closure of an airport, airport runway, or any portion of one only when a condition exists on the airport property that constitutes an imminent and substantial endangerment to aircraft operations and aviation safety, and the condition remains unabated after notice to the airport owner and operator, and a reasonable opportunity has expired to correct any deficiencies determined by the division. The division may promulgate regulations to administer this section.

(B) If the division disagrees with a decision of an airport sponsor or governmental body to close a public use airport or any part of one, both the division and the airport sponsor or governmental body shall engage in mediation or another form of alternative dispute resolution mutually agreed upon in an attempt to resolve their differences. In addition, the division may require that the airport sponsor develop a proposed closure plan that contains:

(1) a certification that all grant conditions imposed by federal or state funding have been complied with, and that all grant funds have been repaid to the appropriate agency;

(2) a statement for the reason for the closure;

(3) an economic analysis of the impact of the closure on the community;

(4) a plan and schedule for the use of or development of a replacement facility acceptable to the division; and

(5) other information required by the division.

Section 55‑5‑160. ~~In~~ Except as otherwise provided in this chapter, in order to facilitate the making of investigations by the division, in the interest of the public safety and the promotion of aeronautics, the public interest requires and it is therefore provided that the reports of investigations or hearings, or any part thereof or any testimony given thereat, shall not be admitted in evidence or used for any purpose in any suit, action or proceeding growing out of any matter referred to in said investigation, hearing or report thereof, except in case of criminal or other proceedings instituted by or in behalf of the division under the provisions of this chapter; nor shall any employee of the division be required to testify to any facts ascertained in, or information gained by reason of, his official capacity and, further, no employee of the division shall be required to testify as an expert witness in any suit, action or proceeding involving any aircraft.

Section 55‑5‑170. ~~The division shall have a seal and shall make such rules and regulations for its administration, not inconsistent herewith, as it may deem expedient. It may from time to time amend such rules and regulations.~~ Reserved

Section 55‑5‑180. The division shall keep on file with the Secretary of State and at the principal office of the division for public inspection a copy of all its rules and regulations. On or before December thirty‑first, in each year, the division shall make to the Governor a full report of its proceedings for the year ending December first in each year and may submit with such report such recommendations pertaining to its affairs as seem to it to be desirable.

Section 55‑5‑190. The division, its members and employees and every county and municipal officer charged with the enforcement of state and municipal laws shall enforce and assist in the enforcement of this chapter. The division may also in the name of the State enforce the provisions of this chapter by injunction in the circuit courts of this State. Other departments and political subdivisions of the State may also cooperate with the ~~Division of Aeronautics of the Department of Commerce~~ division in the development of aeronautics and aeronautic facilities within the State.

Section 55‑5‑200. ~~To carry out the provision of this chapter the division and any officer, state or municipal, charged with the duty of enforcing this chapter, may inspect and examine at reasonable hours any premises and the buildings and other structures thereof where airports, landing fields, air schools, flying clubs, air beacons or other air navigation facilities are operated.~~ Reserved

Section 55‑5‑210. In any case in which the division ~~rejects an application for permission to operate or establish an airport, landing field, air school, flying club, air beacon or other air navigation facility or in any case in which the division shall issue any order requiring certain things to be done, it shall set forth its reasons therefor~~ issues an order pursuant to applicable law, including the South Carolina Administrative Procedures Act, Section 1‑23‑10 et seq., rules and regulations or policy and procedures as documented for public review, the division shall set forth findings of fact and conclusions of law, separately stated and its reasons and shall state the requirements to be met before such approval ~~will be~~ is given or ~~such~~ the order is modified or changed.

Section 55‑5‑220. Any order made by the division pursuant to this ~~chapter~~ title shall be served upon the interested person by registered mail or in person before such order shall become effective.

Section 55‑5‑230. A person against whom an order is entered may appeal within thirty days after the service to the Administrative Law Court as provided in Sections 1‑23‑380~~(B)~~ and 1‑23‑600(D) for the purpose of having the reasonableness or lawfulness of the order inquired into and determined.

Section 55‑5‑240. The person taking the appeal shall file the notice of appeal in the office of the clerk with the Administrative Law Court and serve a copy on the director or his designee and all other parties of record. Upon appellate review, the administrative law judge shall enter an order either affirming or setting aside the order of the court; or may remand the matter to the court for further hearing. The filing of the notice of appeal operates as a supersedeas.

Section 55‑5‑250. ~~If no appeal is taken from the order of the Division of Aeronautics within the period fixed, the party against whom the order is entered is deemed to have waived the right to have the reasonableness or lawfulness of the order reviewed by the Administrative Law Court, and there may be no trial of that issue in a court in which suit may be instituted for the penalty for failure to comply with the order.~~ Reserved

Section 55‑5‑260. ~~Any person failing to comply with the requirements or violating any of the provisions of this chapter or the rules and regulations for the enforcement of this chapter made by the division is guilty of a misdemeanor and punishable by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days or both.~~ (A) A person failing to comply with the requirements of this chapter or the rules and regulations of this chapter is subject to a civil penalty of two thousand dollars per violation.

(B) A person who wilfully or intentionally violates a provision of this chapter or the rules and regulations for the enforcement of this chapter made by the division is guilty of a misdemeanor and is punishable by a fine of not more than two thousand dollars, or by imprisonment for not more than thirty days, or both.

(C) An owner or operator who knowingly makes a false statement or representation of a material fact in a report to or written instrument filed with the division is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not more than ninety days, or both.

Section 55‑5‑270. The terms and provisions of this chapter shall ~~not apply to unlicensed aircraft engaged entirely in private flying and which do not engage in flying for hire in any way~~ apply to all civil aircraft that are not required to have an airworthiness certificate issued by the Federal Aviation Administration or its foreign counterpart unless the aircraft is engaged in private flight operations substantially similar to those conducted by civil aircraft.

Section 55‑5‑280. (A)(1) All monies received from licensing of airports, landing fields, or ~~air schools,~~ funds appropriated for aviation grants, the tax on aviation ~~gasoline~~ fuel, and fees for other licenses issued under this chapter must be paid into the State Treasury and credited to the fund known as the ‘State Aviation Fund’.

(2) The fund also may receive gifts, grants, and federal funds and shall include earnings from investments of monies from the fund.

(3) A fund balance at the close of the fiscal year shall not lapse but must be carried forward to the next fiscal year.

(4) The revenue credited to the State Aviation Fund pursuant to this subsection must be used solely as provided in subsection (C).

(B) In any fiscal year in which the tax levied by the State pursuant to Section 12‑37‑2410, et seq. exceeds five million dollars, the revenues in excess of five million dollars must be directed to the State Aviation Fund; however, any revenue in excess of ten million dollars must be credited in equal amounts to the General Fund and the State Aviation Fund.

(C) The State Aviation Fund must be used solely for:

(1) maintenance and repairs of the division’s aircraft; or

(2) maintenance, rehabilitation, and capital improvements to public use airports, which may include use as matching funds for FAA Airport Improvement Grants, provided that those airports receiving grants meet the requirements set forth by the division.

(3) The State Aviation Fund must not be used for operating expenses of the division.

(D) The division may promulgate regulations governing the eligibility requirements and procedures for disbursements from the State Aviation Fund.

Section 55‑5‑290. ~~Any moneys or fees coming into the hands of the division may be used for the necessary expenses of the division essential to the carrying out of this chapter but no overdraft shall be created by reason of any such expenditures.~~ Reserved ”

SECTION 4. Chapter 9, Title 55 of the 1976 Code is amended to read:

“CHAPTER 9

~~UNIFORM~~ South Carolina Airports Act

Section 55‑9‑10. This chapter may be cited as the ‘~~Uniform~~ South Carolina Airports Act.’

Section 55‑9‑20. It is the intent and purpose of this chapter that all provisions herein relating to the issuance of bonds and levying of taxes for airport purposes and condemnation for airports and airport facilities shall be construed in accordance with the general provisions of the law of this State governing the right and procedure of counties and municipalities to condemn property, issue bonds and levy taxes.

Section 55‑9‑30. The division and the municipalities, counties, airport commissions, special purpose districts, and other political subdivisions of this State may, separately or jointly, acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate and police airports ~~and landing fields~~ for the use of aircraft, either within or without the geographical limits of such municipalities, counties and other political subdivisions and may use for such purpose or purposes any available property owned or controlled by the division or such municipalities, counties or other political subdivisions; but no county shall exercise the authority hereby conferred outside of its geographical limits except in an adjoining county and this only jointly with such adjoining county.

Section 55‑9‑40. Any lands acquired, owned, leased, controlled or occupied by the division or such counties, municipalities or other political subdivisions for the purpose or purposes enumerated in Section 55‑9‑30 shall and are hereby declared to be acquired, owned, leased, controlled or occupied for public, governmental and municipal purposes.

Section 55‑9‑50. The governing bodies of the several counties of this State may acquire land by gift, purchase, or condemnation for the purpose of building, constructing and maintaining ~~landing strips and~~ airports. The provisions of Sections 55‑9‑70 to 55‑9‑180 shall not apply to land that may be acquired under the provisions of this section.

Section 55‑9‑70. Private property needed by the division or a county, municipality or other political subdivision for an airport, ~~or landing field~~ or for the expansion of an airport ~~or landing field~~ may be acquired by grant, purchase, lease or other means, if such political subdivision or the division, as the case may be, is able to agree with the owner of ~~such~~ the property on the terms of ~~such~~ the acquisition and otherwise by condemnation in the manner provided by the law under which such political subdivision or the division is authorized to acquire real property for public purposes. The provisions of this section shall apply to property needed by the Adjutant ~~and Inspector~~ General of South Carolina.

Section 55‑9‑80. When necessary in order to provide unobstructed airspace for the landing and taking off of aircraft utilizing airports ~~and landing fields~~ acquired or maintained under the provisions of this chapter, the division and the counties, municipalities, and other subdivisions, including duly constituted airport commissions and special purpose districts of this State may acquire air rights, including aviation easements, over private property necessary to ensure safe approaches to the landing areas of the airports ~~and landing fields~~, and for the purpose of establishing and protecting ~~aeroplane landing fields~~ airports and runways. ~~Such~~ These air rights may be acquired by grant, purchase, lease, or condemnation pursuant to the provisions of the Eminent Domain Procedure Act (Chapter 2 ~~of~~, Title 28).

Section 55‑9‑90. The division and such counties, municipalities and other political subdivisions of this State may acquire the right or easement for a term of years, or perpetually, to place and maintain suitable markers for the daytime and to place, operate and maintain suitable lights for the nighttime marking of buildings or other structures or obstructions, for the safe operation of aircraft utilizing airports ~~and landing fields~~ acquired or maintained under the provisions of this chapter. Such rights or easements may be acquired by grant, purchase, lease or condemnation in the same manner as is provided in this chapter for the acquisition of the airport ~~or landing field~~ itself or the expansion ~~thereof~~ of it.

Section 55‑9‑190. The division, counties, municipalities and other political subdivisions of this State which have established airports ~~or landing fields or~~ which acquire, lease or set apart real property for ~~any such purpose~~ these purposes may:

(1) ~~Construct~~ construct, equip, improve, maintain and operate ~~such~~ airports ~~or landing fields~~ or vest authority for the construction, equipment, improvement, maintenance and operation ~~thereof~~ of it in an officer, board or body of ~~such~~ the political subdivision, the expense of ~~such~~ the construction, equipment, improvement, maintenance and operation to be a responsibility of such political subdivision;

(2) ~~Adopt~~ adopt regulations and establish charges, fees and tolls for the use of such airports ~~or landing fields,~~ fix penalties for the violation of such regulations and establish liens to enforce payment of such charges, fees and tolls; and

(3) ~~Lease~~ lease ~~for a term such airports or landing fields~~ these airports to private parties for operation or lease ~~or assign for a term~~ to private parties for operation space, area, improvements and equipment on such airports ~~or landing fields,~~ provided in each case that in so doing the public is not deprived of its rightful, equal, and uniform use ~~thereof~~ of it.

Section 55‑9‑200. The purchase price or award for real property acquired, in accordance with the provisions of this chapter, for an airport ~~or landing field~~ may be paid for by appropriation of ~~moneys~~ monies available ~~therefor~~ for it or wholly or partly from the proceeds of the sale of bonds of ~~such~~ the county, municipality or other political subdivision as the legislative body of ~~such~~ the political subdivision shall determine~~;~~ subject~~, however,~~ to the adoption of a proposition ~~therefor~~ for it at a regular or special election, if the adoption of ~~such~~ a proposition is a prerequisite to the issuance of bonds of ~~such~~ the political subdivision for public purposes generally.

Section 55‑9‑210. The local public authorities having power to appropriate ~~moneys~~ monies within the counties, municipalities or other political subdivisions of this State acquiring, establishing, developing, operating, maintaining or controlling airports ~~or landing fields~~ under the provisions of this chapter may appropriate and cause to be raised by taxation or otherwise in such political subdivisions ~~moneys sufficient to carry out therein the provisions of this chapter and may also use for any such purpose moneys.~~ All monies derived from ~~such~~ these airports ~~or landing fields~~ must be obligated to these facilities. A diversion of revenue away from airport facility accounts for nonaeronautical purposes is unlawful and may subject an airport or airport sponsor to denial of future funding.

Section 55‑9‑220. Any unexpended ~~moneys~~ monies appropriated for airport development for a particular county may be transferred to repairs to airports for that particular county upon request of the division.

Section 55‑9‑230. Counties, municipalities or other political subdivisions of this State acquiring, establishing, developing, operating, maintaining, controlling or having an interest in airports ~~or landing fields,~~ without the geographical limits of ~~such~~ these subdivisions, under the provisions of this chapter may promulgate, amend and enforce police regulations for ~~such airports or landing fields,~~ these entities irrespective of whether or not the title to the properties is vested in, and the management and operation of ~~any such~~ an airport ~~or landing field~~ is by~~,~~ a commission created by statute or otherwise.

Section 55‑9‑240. All land surrounding public‑owned airports in this State, which are funded partially or wholly by this State, ~~shall~~ must be zoned by appropriate county, municipal or regional authorities so as to conform ~~with~~ to pertinent regulations of the Division of Aeronautics and the United States Department of Transportation, Federal Aviation Administration~~, Department of Transportation~~.

Section 55‑9‑250. An airport hazard is a condition, occurrence or activity that endangers the lives and property of users of an airport and of occupants of land and other persons in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment in it. Therefore:

(1) the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by an airport;

(2) it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards be prevented;

(3) this should be accomplished, to the extent legally possible, by proper exercise of the police power; and

(4) the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which county, municipal, or regional authorities may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interests in them.

(5) In the event of an abatement of an airport hazard on private property by the division under Section 55‑5‑80 or Section 55‑9‑280, the division and a local government shall have the ability to seek cost recovery against the person responsible for creating or maintaining the hazard for the actual costs in the removal or abatement of the hazard.

Section 55‑9‑260. A county, municipality or political subdivision that has an airport hazard area within its territorial limits may adopt, administer, and enforce in the manner and upon the conditions prescribed by this chapter, zoning regulations for the airport hazard area. These regulations may divide the area into zones and, within these zones, specify the land uses permitted, and regulate and restrict, for the purpose of preventing airport hazards, the height to which structures and trees may be erected or permitted to grow. The adoption of these zoning regulations shall conform to the requirements of Section 6‑29‑710, et seq. of the South Carolina Code of laws governing zoning.

Section 55‑9‑270. When an airport hazard area appertaining to an airport owned or controlled by a county, municipality, or political subdivision is located outside the territorial limits of the political subdivision, the political subdivision owning or controlling the airport, and the county, municipality, or political subdivision within which the airport hazard area is located, may by ordinance adopt, administer, and enforce airport zoning regulations applicable to the airport safety zones, airport land use zones, and airport hazards.

Section 55‑9‑280. A governmental entity that owns or controls an airport and the Division of Aeronautics may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards appertaining to an airport in violation of any zoning regulations adopted or established pursuant to the provisions of this chapter for any area whether within or without the territorial limits of the municipality.

Section 55‑9‑290. The division may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards appertaining to any airport within the State, in violation of any zoning regulations adopted or established pursuant to the provisions of this chapter.

Section 55‑9‑300. Any governmental entity may incorporate airport hazard area regulations and administer and enforce them.

Section 55‑9‑310. In the event of a conflict between any airport zoning regulations adopted or established pursuant to chapter and any other regulations applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

Section 55‑9‑320. In adopting, amending, and repealing airport zoning regulations under this chapter, the governing body of a county, city, or political subdivision city shall follow the procedure in Section 6‑29‑760.

Section 55‑9‑330. (A) All airport zoning regulations adopted pursuant to chapter shall be reasonable and none shall impose any requirement or restriction which is not necessary to effectuate the purposes of this chapter.

(B) Airport zoning regulations adopted under this chapter may require the removal, lowering, or other change or alteration of any structure or tree, or a change in use, not conforming to the regulations when adopted or amended. An affected local government shall have the ability to seek cost recovery against the persons responsible for creating or maintaining the condition for the actual costs in the removal or abatement of the condition.

(C) Airport zoning regulations adopted under this chapter may require a property owner to permit the governmental entity to install, operate, and maintain on the property markers and lights, as necessary, to indicate to operators of aircraft the presence of the airport hazard.

(D) All regulations may provide that a preexisting nonconforming structure, tree, or use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted.

(E) In the case of an abatement of an aviation hazard as a public nuisance or nonconformity with applicable aviation safety or zoning regulations, or both on private property, a municipality or county may provide by ordinance for notification to the owner of conditions needed for correction, may require that the owner take such action as is necessary to correct the conditions, may provide the terms and conditions under which employees of the municipality or any person employed for that purpose may go upon the property to correct the conditions, and may provide that the cost of such shall become a lien upon the real estate, and must be collectable in the same manner as municipal or county taxes.

Section 55‑9‑340. A person desiring to erect or increase the height of a structure, or to permit the growth of any tree, or otherwise use the person’s property in violation of airport zoning regulations adopted under this chapter, may apply to the board of zoning appeals or joint board of appeals for a variance from the zoning regulations. The variances must be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of the regulations and this chapter. However, that any variance may be allowed subject to any reasonable conditions that the board of adjustment may consider necessary to effectuate the purposes of this chapter, including the reservation of the right of the governmental entity, at its own expense, to install, operate, and maintain on it markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

Section 55‑9‑360. All airport regulations adopted pursuant to this chapter shall provide for the administration and enforcement of these regulations by an administrative agency, which may be an agency created by these regulations, or by any official board, or other existing agency of the entity or entities adopting the regulations.”

SECTION 5. Chapter 11, Title 55 of the 1976 Code is amended to read:

“CHAPTER 11

Particular Airports

Article 1

Clemson University

Section 55‑11‑10.The board of trustees of Clemson University may:

(1) plan, acquire, own, control, develop, maintain and operate a public airport in accordance with the requirements of the Federal ~~Airport~~ Aviation Act and the regulations prescribed thereunder;

(2) develop, maintain and operate such public airport out of any appropriations provided by the State or other funds, public or private, made available for such purposes;

(3) enter into agreements with the State for the purpose of receiving State funds available for public airport purposes, and accept, receive, receipt for, disburse and expend such State funds for the purposes provided by this section; provided, however, that such funds shall be accepted and expended upon such terms and conditions as may be prescribed by the State;

(4) enter into grant agreements with the United States for the purpose of receiving Federal grant‑in‑aid funds for public airport purposes, and accept, receive, receipt for, disburse and expend such funds made available by grant, to accomplish in whole or in part any of the public airport purposes provided for by the Federal Airport Act and the regulations thereunder; provided, however, that all Federal funds shall be accepted and expended upon such terms and conditions as may be prescribed by the United States or any agency or department thereof;

(5) designate the Division of Aeronautics of the ~~Department of Commerce~~ Budget and Control Board as its agent, to accept, receive, receipt for and disburse federal or state funds or other funds, public or private, made available for the purposes of this section, as may be required or authorized by law;

(6) acquire property, real and personal, or any interest in it, by gift, purchase, condemnation, devise, lease, or otherwise, as may be required in the development and operation of a public airport;

(7) adopt regulations, establish charges, fees and tolls for the use of such airport, and exercise such powers as may be necessary to achieve compliance with its regulations and enforce payment of its charges, fees and tolls; and

(8) enter into long‑term contracts, leases and other agreements relative to the development, operation and management of the airport; provided, however, that such contracts, leases and agreements shall be in compliance with the requirements of the Federal Airport Act and the regulations prescribed thereunder and in accordance with the laws and regulations governing the making of contracts, leases or agreements by or on behalf of the State.

Article 3

Greenville and Spartanburg Counties

Section 55‑11‑110. The territory embraced by the counties of Greenville and Spartanburg is hereby constituted an airport district and political subdivision of this State, the functions of which shall be public and governmental, and the inhabitants of such territory are hereby constituted a body politic and corporate. The corporate name of the airport district shall be Greenville‑Spartanburg Airport District, and by that name the airport district may sue and be sued.

Section 55‑11‑120. The corporate powers and duties of the District shall be exercised and performed by a Commission to be known as Greenville‑Spartanburg Airport Commission. The Commission shall be composed of six members to be appointed by the Governor as follows: Three of the members shall be residents of Spartanburg County and the original members shall be appointed upon the recommendation of a majority of the members of the Spartanburg County legislative delegation. Three of the members shall be residents of Greenville County and the original members shall be appointed upon the recommendation of a majority of the members of the Greenville County legislative delegation. The term of office of one of the original members from Greenville County and one of the original members from Spartanburg County shall be for two years. The term of another of the original members from Greenville County and another of the original members from Spartanburg County shall be for four years. The two remaining members and the successors in office of all the members of the Commission shall serve for a term of six years. The term of each member shall expire on the January first nearest to the end of the term of years for which he is appointed under the foregoing provision; provided, that each member shall serve until his successor is appointed and qualified. Upon the expiration of the term of each commissioner his successor shall be elected in the same manner as set forth above. Upon election by a majority of the Spartanburg delegation or a majority of the Greenville delegation, as the case may be, then the secretary or acting secretary of the county delegation shall certify the approval to the Governor, who shall commission the nominee for the term provided by the provisions of this section. Any new member shall be a suitable person who is a resident of the same county as the member he is to succeed. Successors shall be appointed to serve for the unexpired term of members who die or resign in like manner and upon like recommendation as hereinabove set forth.

Section 55‑11‑130. The Commission shall appoint one of its members as chairman and one of its members, or any other competent person, as secretary of the Commission. The chairman of the Commission shall serve for a term of two years and until his successor is appointed and qualified. The members of the Commission shall serve without compensation, except for their actual expenses while in performance of duties prescribed under this article.

Section 55‑11‑140. To the Commission is hereby committed the function of planning, establishing, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, protecting and policing an airport and air navigation facility to serve the people of the District and the public generally. To this end, the Commission may:

(1) Have perpetual succession.

(2) Adopt, use and alter a corporate seal.

(3) Make bylaws for the management and regulation of its affairs, and define a quorum for its meetings.

(4) Requisition, from time to time, moneys from the State Treasurer which have been derived from the principal proceeds of general obligation bonds issued pursuant to 1959 Acts and Joint Resolutions (51 Statutes at Large) No. 99, whenever, in the opinion of the Commission, funds are required for any purposes for which the bonds shall have been issued. The requisition shall certify to the State Treasurer the sum which, in the opinion of the Commission, is required and shall set forth generally the nature of the purposes to which the moneys are to be applied. Following the requisition of moneys, they shall be deposited in any bank or trust company having an office within the district, and shall thereafter be withdrawn and expended by the Commission for the purposes for which the bonds were issued.

(5) Deposit and withdraw moneys realized from the sale of revenue bonds issued pursuant to Section 55‑11‑150 and to expend the moneys in the manner prescribed by the proceedings authorizing the issuance of the revenue bonds.

(6) Deposit moneys derived from revenue producing facilities in any bank or trust company having an office within the district and withdraw the moneys for the purpose of operating, maintaining, constructing, improving and extending any facility in its charge.

(7) Plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police its airport and air navigation facility under such reasonable rules and regulations as the Commission may from time to time promulgate.

(8) Maintain and extend runways, terminals, maintenance shops, access roads, utilities systems, concessions, accommodations, and other facilities of whatever nature or kind for the comfort and accommodation of air travelers; purchase and sell supplies, goods and commodities as an incident to the operation of its airport facilities; and for all such purposes the Commission may by purchase, gift, devise, lease, eminent domain proceedings, or otherwise acquire, hold, develop, use, lease, mortgage, sell, transfer, and dispose of any property, real or personal, or any interest therein, including easements in airport hazards, or land outside the boundaries of its airport or airport site, necessary to permit the removal, elimination, obstruction‑marking or obstruction‑lighting, of airport hazards, or to prevent the establishment of airport hazards.

(9) License, lease, rent, sell or otherwise provide for the use of any of its airport facilities, including the privilege of supplying goods, commodities, things, services or facilities at such airport by any persons qualified to use them, as its discretion may dictate; provided, that in no case shall the public be deprived of its rightful, equal and uniform use of the airport, air navigation facility, or portion or facility thereof.

(10) Place in effect and, from time to time, revise such schedules of licenses, rates, and charges for the use of its facilities as may be necessary or desirable to the orderly operation of the airport facility of the District; provided, that all such rates and charges shall be reasonable and nondiscriminatory.

(11) Exercise the power of eminent domain for any corporate function. The power may be exercised through any procedure prescribed by Sections 28‑9‑10 to 28‑9‑110. All powers conferred on municipalities under Sections 28‑9‑10 to 28‑9‑110 are conferred herein on the Commission.

(12) Appoint officers, agents, employees and servants and prescribe the duties of such, including the right to appoint persons charged with the duty of enforcing its rules and regulations as provided for in item (7) of this section, fix their compensation and determine if and to what extent they shall be bonded for the faithful performance of their duties.

(13) Employ engineers, architects and attorneys and contract for such other services of a technical or professional nature as may be necessary or desirable to the performance of the duties of the Commission.

(14) Make contracts for the construction, erection, maintenance and repair of the facilities in its charge, in accordance with the State Procurement Code, Chapter 35, Title 11 ~~by competitive bidding if such contracts are in excess of ten thousand dollars. If the contracts are less than ten thousand dollars, then the Commission may make such contracts without competitive bids~~.

(15) Apply for, accept, receive, receipt for, disburse and expend Federal, State, county or municipal moneys and other moneys, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this article and, to this end, continue to prosecute any application filed with the Federal ~~Civil Aeronautics~~ Aviation Administration ~~or the Federal Airway Authority,~~ or any other Federal agency, by joint action of the Spartanburg County and Greenville County legislative delegations and pay from the funds of the district any costs heretofore or hereafter incurred for any services rendered, since the date the application was filed, in connection with the procuring or processing of the application which are found by the commission to legitimately inure to the benefit of the district. All Federal moneys accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the United States and as are consistent with State law, and all other moneys accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the State or other sources thereof.

(16) Do all other acts and things necessary or convenient to carry out any function or power committed or granted to the district.

Section 55‑11‑150. The commission may, on behalf of the district, borrow money and make and issue negotiable bonds, notes and other evidences of indebtedness payable solely from the revenue derived from the operation of any revenue‑producing facility or facilities in its charge. The sums borrowed may be those needed to pay costs incident to the operation and maintenance of its airport facility or such sums as may be needed to pay the cost of any extension, addition or improvement to its airport facility, or both. If the method of financing authorized by this section is used, neither the faith and credit of this State nor of any county lying within the district nor of the district itself shall be pledged to the payment of the principal and interest of the obligations, and there shall be on the face of such obligation a statement, plainly worded, to that effect. Neither the members of the commission nor any person signing the obligations shall be personally liable thereon. That a convenient procedure for borrowing money pursuant to this section may be prescribed, the district may avail itself of all powers granted by Title 6, Chapter 17, notwithstanding the fact that the district shall not otherwise be deemed to be a municipality. In exercising the powers conferred upon the district by such code provisions, the district may make all pledges and covenants authorized by any provision thereof, and may confer upon the holders of its securities all rights and liens authorized by such code provisions. Specifically, and notwithstanding contrary provisions in any such code provisions, the district may:

(1) provide that such bonds, notes or other evidences of indebtedness be payable, both as to principal and interest, from the net revenues derived from the operation of any revenue‑producing facility or facilities, as such net revenues may be defined by the Commission;

(2) covenant and agree that upon its being adjudged in default as to the payment of any installment of principal and interest upon any obligation issued by it or in default as to the performance of any covenant or undertaking made by it, that in such event the principal of all obligations of such issue may be declared forthwith due and payable, notwithstanding that any of them may not have then matured;

(3) confer upon a corporate trustee the power to make disposition of the proceeds from all borrowings and also all revenues derived from the operation of the revenue‑producing facility whose revenues are pledged for the payment of such obligations, in accordance with and in the order of priority prescribed by resolutions adopted by the commission as an incident to the issuance of any notes, bonds or other evidences of indebtedness;

(4) dispose of its obligations at public or private sale and upon such terms and conditions as it shall approve;

(5) make such provision for the redemption of any obligations issued by it prior to their stated maturity, with or without a premium, and on such terms and conditions as the commission shall approve;

(6) covenant and agree that any cushion fund established to further secure the payment of principal and interest of any obligation shall be in a fixed amount;

(7) covenant and agree that it will not enter into any agreements with any person or with the government of this State, the United States, or any of their political subdivisions, for the furnishing of free services where such services are ordinarily charged for;

(8) prescribe the procedure, if any, by which the terms of the contract with the holders of its obligations may be amended, the number of obligations whose holders must consent thereto, and the manner in which such consent shall be given; and

(9) prescribe the evidences of default and conditions upon which all or any obligation shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

Section 55‑11‑160. All revenues derived by the commission from the operation of any revenue‑producing facility which may not be required to discharge covenants made by it in issuing bonds, notes or other obligations authorized by Section 55‑11‑150, shall be held, disposed of or expended by the commission for purposes germane to the functions of the district.

Section 55‑11‑170. The rates charged for services furnished by any revenue‑producing facility of the district as constructed, improved, enlarged or extended shall not be subject to supervision or regulation of any State bureau, commission, board or other like instrumentality or agency thereof.

Section 55‑11‑180. Property and income of the district ~~shall be~~ are exempt from all taxes and fees levied by the State, county or any municipality, division, subdivision or agency ~~thereof~~ of them, direct or indirect.

Section 55‑11‑185. No municipality may annex any real property owned by the district without prior written approval of the commission.

Section 55‑11‑190. So long as the district shall be indebted to any person on any bonds, notes or other obligations issued pursuant to the authority of this article, provisions of this article and the powers granted to the district and the commission shall not be in any way diminished, and the provisions of this article shall be deemed a part of the contract between the district and the holders of such obligations.

Section 55‑11‑200. During each year in which an ad valorem tax is levied on the property with the Greenville‑Spartanburg Airport District, the commission of said district shall determine the total amount realized from such tax and notify the treasurer of that county, paying to the Comptroller General less than that turned over to said Comptroller General by the other county. Thereupon such treasurer shall, from the general funds of his county, pay to the treasurer of the other county, to be placed in the general funds, such amount as shall be necessary to equalize the amount contributed by each county.

Section 55‑11‑210. The commission is authorized to allow the sale of alcoholic beverages at facilities on airport property designed for the sale of food and beverage items. The hours and days of sales must be established and regulated by the commission, and may not be in conflict with state law and to adopt and promulgate rules and regulations governing the use of roads, streets, buildings, services, and parking facilities on lands of the Greenville‑Spartanburg Airport District. ~~Such~~ These rules and regulations shall not be in conflict with any state law and all state laws shall be applicable to the roads, streets and parking facilities under the control of the commission. Rules and regulations of the commission shall become effective when filed with the Executive Secretary of the Greenville‑Spartanburg Airport and in the office of the Secretary of State in accordance with Section 1‑1‑210.

The commission is authorized to employ police officers commissioned by the Governor to enforce all laws and the rules and regulations authorized in this section, and ~~such~~ these officers shall be authorized to issue summonses for violations in the manner authorized for state highway patrolmen. Violations of ~~any~~ a law ~~or any~~ a rule, or regulation of the commission within the jurisdiction of the ~~Civil and Criminal Court~~ Circuit Court of Spartanburg shall be tried in that court. Violations not within the jurisdiction of that court shall be tried by any magistrate or other court of competent jurisdiction. ~~Any~~ A person ~~violating~~ who wilfully or intentionally violates the rules and regulations of the commission ~~shall be deemed~~ is guilty of a misdemeanor, and upon conviction, ~~shall~~ must be fined not more than ~~one~~ two hundred dollars,or as otherwise provided by law, or be imprisoned for not more than thirty days.

All fines and forfeitures collected pursuant to the provisions of this section shall be forwarded weekly to the Greenville‑Spartanburg Airport Commission by the enforcing court for deposit in the general operating fund of the district.

Section 55‑11‑220. No such airport district property shall be a barrier to the contiguity requirements for the purposes of annexation. Any municipality or political subdivision which is contiguous to property owned by such ~~multi‑county~~ multicounty airport district may annex, as provided by law, any property contiguous to such airport district property. Provided, that this provision shall be applicable to annexations taking place after October 1, 1994.

Section 55‑11‑230. (A) An area designated as the airport environs area is created within the district for purposes of assuring land uses compatible with airport operations. The airport environs area consists of all property contained within the area described as follows:

All property consisting of the area described in the Air Installation Compatible Use Zone pursuant to DODINST 4165.57 established by the United States Air Force applicable to runways ~~3L‑21R~~ 4L‑22R (11,000 feet) and the proposed parallel runways ~~3R‑21L~~ 4R‑22L (8,500 feet) including the CLEAR ZONES, ACCIDENT POTENTIAL ZONE I, and the ACCIDENT POTENTIAL ZONE II. Specifically, the environs includes all property 1,000 feet to each side of the runway centerlines and in a corridor 3,000 feet (1,500 feet either side of the runway centerlines) wide, extending from the runway thresholds along the extended runway centerlines for a distance of 15,000 feet, and shall include the property located between the two corridors; provided, however, that the southwestern boundary of the environs area shall be the middle of Rocky Creek.

(B)(1) There is created the Greenville‑Spartanburg Airport Environs Planning Commission, the ‘Airport Environs Planning Commission’, consisting of nine voting members, which have the powers enumerated herein, and which must be separately constituted from the Greenville‑Spartanburg Airport Commission, as follows:

(a) two members representing and appointed by the City of Greer, one of whom also must be a resident of Greenville County and one of whom also must be a resident of Spartanburg County;

(b) two members representing and appointed by Spartanburg County;

(c) one member representing and appointed by the Town of Duncan;

(d) two members representing and appointed by Greenville County;

(e) all members must be appointed or reappointed biennially by the appointing county or municipality;

(f) two members must be appointed or reappointed biennially by the Greenville‑Spartanburg Airport District, one from Spartanburg County, and one from Greenville County.

If the members are elected members of the county or municipal governing body or members of the district, each such representative shall serve ex officio and with full voting privileges.

(2) If any new municipality is created where its boundaries are wholly or partially within the airport environs area, or if any existing municipality extends its corporate boundaries into the airport environs area, that municipality becomes entitled to appoint a member of the Airport Environs Planning Commission with a representative appointed as described in ~~subitem (g) of item (1)~~ item (1)(g) of this subsection, and the membership shall expand accordingly.

(3) The Airport Environs Planning Commission is charged with the responsibility of:

(a) developing a coordinated comprehensive land use plan for the airport environs area in a manner consistent with the process referred to in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 contained in Article 3, Chapter 29, Title 6; however, once the Airport Environs Planning Commission has adopted a land use plan, no further action by any other commission or governing body is necessary in order to give effect to the regulations thereby adopted;

(b) updating the land use plan to reflect changes in the airport environs area and the uses of the airport; and

(c) monitoring the administration of and compliance with the plan by the affected counties and municipalities. The commission’s actions are to assure that land use within the airport environs area is compatible with noise, health, safety, and welfare considerations arising from the operation of the district. The initial meeting of the Airport Environs Planning Commission must be held within forty‑five days of the effective date of this section.

(4) By January 31, 1996, the Airport Environs Planning Commission shall develop a uniform land use plan and uniform building performance standards for the airport environs area, submit them for review and comment to the governing body of each political subdivision represented on the Airport Environs Planning Commission, as well as the South Carolina Department of Commerce and the Federal Aviation Administration, conduct public hearings pursuant to Article 3, Chapter 29, Title 6, on the proposed uniform plan and standards. After receiving comments and conducting hearings, the Airport Environs Planning Commission shall adopt a land use plan and building performance standards to be effective throughout the airport environs area and enforced fully and without amendment by each political subdivision represented on the Airport Environs Planning Commission. The Airport Environs Planning Commission, by majority of all voting members, may extend the January 31, 1996, deadline for a reasonable period of time not to exceed beyond March 31, 1996, for the completion of these tasks. Each political subdivision shall enforce the uniform plan and standards as an ‘overlay zone’, identifying areas subject to regulation which are supplementary to the existing regulations of that political subdivision, or as new or superseding provisions to that political subdivision’s ordinances. If there is a conflict between the provisions adopted by the Airport Environs Planning Commission under this section or regulations of a political subdivision applicable to the airport environs area, then the provisions adopted by the Airport Environs Planning Commission under this section shall govern. If a uniform land use plan or uniform building performance standards are not developed by the Airport Environs Planning Commission in the manner provided in this section, any of the entities represented on the Airport Environs Planning Commission may file an action for relief, including mandamus or injunctive relief, in the circuit court for Greenville or Spartanburg County, to require adoption of the plan or standards, or both, as directed by this section. Such an action must be brought within sixty days of the deadline as set forth above.

(5) The Airport Environs Planning Commission shall organize itself, electing one of its members as chairman and one of its members as vice chairman, whose terms must be for two years. It shall appoint a secretary, who may or may not be a member, but who must be a representative or employee of the Airport District. The secretary shall give notice of all meetings to all members of the Airport Environs Planning Commission at least three business days prior to the meeting.

(6) The Airport Environs Planning Commission shall provide for the keeping of minutes of its proceedings which shall be a public record. A majority of the voting members of the Airport Environs Planning Commission shall constitute a quorum. A quorum shall be present before any business is conducted, other than the rescheduling of the meeting. A member must be present to vote. All decisions shall be by majority vote of the members present and voting. The Airport Environs Planning Commission, as it considers appropriate, may utilize committees and subcommittees. The general administrative expenses of the Airport Environs Planning Commission shall be borne by the Greenville‑Spartanburg Airport District. A budget for such expenses shall be developed by the Airport Environs Planning Commission to include anticipated costs for consultants.

(7) The Airport Environs Planning Commission is subject to the provisions of the Freedom of Information Act as contained in Chapter 4, Title 30.

(8) The Airport Environs Planning Commission shall work with the Greenville and Spartanburg County Planning Commissions and the planning commission of each affected municipality in the performance of its duties as outlined in item (4) of this subsection. The costs of the services of consultants and advisors, other than provided for in the budget, rendered to the Airport Environs Planning Commission at the request of a specific member must be borne by that member unless otherwise approved by the Airport Environs Planning Commission.

(9) In developing the uniform land use plan and uniform building standards, the Airport Environs Planning Commission shall specifically address, among other items, the following specific issues:

(a) the providing of record notice to property owners of the fact that their property is within the airport environs area;

(b) density criteria for the airport environs area;

(c) sound abatement permit and building criteria;

(d) incompatible use criteria and definition for the airport environs area;

(e) height restriction criteria;

(f) lighting hazard criteria within the airport environs area;

(g) applicable FAA and state regulations for airport activities and operations;

(h) a method by which landowners may seek variances or exemptions from the plans or standards by executing in recordable form aviation or avigation easements, releases, or other appropriate documentation in a form approved by the Airport Environs Planning Commission;

(i) application and review processes for building permits;

(j) the providing of ongoing notice to the Airport Environs Planning Commission and each of its members of pending zoning or permitting requests and other actions in the affected counties and municipalities to assure that each member has notice and the opportunity to be heard with respect to such actions;

(k) enforcement and penalty provisions, including injunctive relief;

(l) the utilization of fees to be imposed to defray costs for services and attendant expenses involved in the administration of the regulations;

(m) the development of uniform standards for regulating nonconforming uses; and

(n) the uses in the airport environs area and the sub‑area based on future projected uses of the airport which are not compatible and should not be permitted, which are basically incompatible and should be discouraged, and which are generally compatible with some limitations or restrictions. Such determination shall take into account the public safety and public welfare findings set forth in Section 1 hereof. Such determinations are to conform to and be consistent with noise and overflight zone‑compatible land use recommendations of federal and state authorities, including specifically policies established by the United States Air Force pursuant to DODINST 4165.57 Air Installation Compatible Use Zone (A1CUZ), the uses recommended in the 1993 Greenville‑Spartanburg Development Plan adopted by the county planning commissions, and the South Carolina Department of Commerce, Aviation Division.

(10) Following the adoption of the uniform land use plan and uniform building and performance standards by the Airport Environs Planning Commission, each political subdivision is responsible for the implementation and administration of the uniform provisions within its jurisdiction, including all administrative costs incurred in connection therewith. The district shall pay for any exceptional administrative costs determined by the Airport Environs Planning Commission, and agreed to by the district, to be direct and reasonable costs resulting from any special task required in the administration of the uniform plan and building performance standards. Additionally, the district shall pay for the reasonable administrative expenses involved in the monitoring activities described in ~~subitem (c) of item (3)~~ item (3)(c) of this subsection. The Airport Environs Planning Commission shall meet at least annually to review the administration of the uniform plan and building performance standards by the member bodies, to consider issues which may require modifications or additions to the uniform provisions, to recommend appropriate studies to evaluate the effectiveness of the objectives of the uniform provisions, to consider future activities of the district and the impact of the same upon the airport environs area, and conduct such other business as may be appropriate. Based upon these activities, the Airport Environs Planning Commission may determine a need for amendments to the uniform provisions. Amendments shall be made in accord with the same uniform provisions on conducting hearings and submitting for review and comments for the initial uniform land use plan and uniform building performance standards.

(11)(a) In connection with the administration of the uniform provisions by any member political subdivision, the Airport Environs Planning Commission as a whole or any of its member bodies individually or collectively, including the district, have standing to appear and support or oppose the proposed action of the particular political subdivision involved and have the same standing to appeal this action as the affected political subdivision or the affected landowner would have under Article 5, Chapter 29, Title 6.

(b) Affected property owners or other aggrieved parties have the same standing to appeal rights with respect to a decision by a member political subdivision pursuant to its administration of the uniform provisions as property owners or aggrieved parties have in accordance with the appeal processes provided in Article 5, Chapter 29, Title 6.

(12) A lawful use which exists on the date of adoption by the Airport Environs Planning Commission of the uniform provisions required by this section and which is inconsistent with the provisions of the uniform land use plan or uniform performance building standards is exempt from the uniform provisions, and any regulation created by these uniform provisions may not require the removal or alteration of any structure that, as it exists when the uniform provisions are adopted, did not conform to that regulation.

(13) All costs, fees, or awards, or any combination of these, arising from or as a result of any action of the Airport Environs Planning Commission or the enforcement of the uniform provisions enacted pursuant to this section in excess of any state or federal funds received to defray such costs, fees, or awards must be borne by the counties in which the Greenville‑Spartanburg Airport District is located; provided, however, any municipality or county administering the comprehensive land use plan and uniform buildings standards adopted by the Airport Environs Planning Commission is only liable for any costs, fees, or awards arising from their ministerial acts.

(C) The provisions of this section do not apply to dwellings or other buildings which are damaged or destroyed and which are subsequently repaired or rebuilt.

Article 5

Lexington and Richland Counties

Section 55‑11‑310. The territory embraced by the counties of Richland and Lexington is hereby constituted an airport district and a political subdivision of this State, the functions of which shall be public and governmental, and the inhabitants of the territory are hereby constituted a body politic and corporate. The corporate name of the airport district shall be Richland‑Lexington Airport District, and by that name the airport district may sue and be sued.

Section 55‑11‑320. The corporate powers and duties of the Richland‑Lexington Airport District must be exercised and performed by a commission to be known as Richland‑Lexington Airport Commission. The commission must be composed of twelve members to be appointed by the Governor as follows: five members must be appointed upon the recommendation of a majority of the Lexington County Legislative Delegation, five members must be appointed upon the recommendation of a majority of the Richland County Legislative Delegation, and two members must be appointed upon the recommendation of the City Council of the City of Columbia. The members of the commission shall serve for terms of four years and until their successors are appointed and qualify. Members may not serve more than two consecutive terms. A member serving on July 1, 1994, may serve until the expiration of the term for which he was elected and may serve two additional terms. In the event of a vacancy for any reason, other than the expiration of a term, a successor must be appointed in the same manner of the original appointment for the balance of the unexpired term. Any member may be removed by the appointing authority for neglect of duty, misconduct, or malfeasance in office after being given a written statement of reasons and an opportunity to be heard. Notwithstanding the expiration of the term of office of any member, he shall continue to serve until his successor shall have been recommended, appointed, and qualified, but any delay in appointing a successor shall not extend the term of such successor. The members of the commission shall serve without compensation, except for their actual and necessary expenses while in performance of duties prescribed under this article.

Section 55‑11‑330. The commission shall appoint one of its members as chairman, one of its members as vice chairman, and one of its members, or any other competent person, as secretary of the commission. The chairman of the commission shall serve for a term of two years and until his successor is appointed and qualified. The vice chairman shall likewise serve for a term of two years and until his successor is appointed and qualified. The office of chairman of the commission must be rotated among the representatives of the three constituent appointing public bodies, appointed by majority vote of the commission, for a term of two years. The frequency of serving as chairman of the commission must be based upon, and substantially equivalent to, the percentage that each public body’s membership on the commission is to the total membership of the commission. No representative of the same public body may be appointed chairman unless there has been at least one full two‑year intervening term in which a representative of one of the other public bodies has served as chairman. In the event that the office of chairman becomes vacant, the duties of the chairman must be temporarily performed by the vice chairman, but a successor must be appointed as expeditiously as possible from the members representing the same constituent public body as did the former chairman who failed to complete his term. Insofar as is practicable, the same scheme of rotation must be applied to the office of vice chairman, but the practice of rotating the office of vice chairman may be dispensed with, if the commission, by a two‑thirds vote, finds that the rotation of this office is impracticable. Office on the commission is deemed an office of honor within the meaning of the provisions of Section 1A ~~of~~, Article 17 of the Constitution of South Carolina. The term of the secretary of the commission must be fixed by the commission.

Section 55‑11‑340. There is hereby committed to the Commission the functions of planning, establishing, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, protecting and policing such airports and air navigation facilities as shall be necessary to serve the people of the Richland‑Lexington Airport district and the public generally. To this end, the commission ~~shall be~~ is empowered:

(1) To have and enjoy perpetual succession.

(2) To adopt, use and alter a corporate seal.

(3) To make bylaws for the management and regulation of its affairs, and to define a quorum for its meetings, which shall require the presence of ~~at least four members~~ a simple majority of the total number of commissioners as provided by statute. Adequate notification of all meetings and the time and place shall be given to each member.

(4) To plan, establish, develop, construct, enlarge, improve, maintain (which term shall include, here as hereafter, the power to establish a reasonable reserve for maintenance), equip, operate, regulate, protect and police its airports and air navigation facilities under such reasonable rules and regulations as the commission may from time to time promulgate.

(5) To maintain and extend runways, terminals, maintenance shops, access roads, utilities systems, concessions, accommodations, own and maintain within the district postal facilities, and other facilities of whatever nature or kind for the comfort and accommodation of air travelers and air freight; to purchase and sell supplies, goods, and commodities as an incident to the operation of its airport facilities; and for all those purposes, the commission may, by purchase, gift, devise, lease, eminent domain proceedings, or otherwise, acquire, hold, develop, use, lease, mortgage, sell, transfer, and dispose of any property, real or personal, or any interest in it, including easements in or over land needed to prevent airport hazards, or land outside the boundaries of its airports and air navigation facilities necessary to permit the removal, elimination, obstruction‑marking or obstruction‑lighting of airport hazards, or to prevent the establishment of airport hazards.

(6) To license, lease, rent, sell or otherwise provide for the use of any of its airport facilities, and facilities auxiliary thereto, including the privilege of supplying goods, commodities, things, services or facilities at such airport by itself or by any persons or corporations qualified therefor, on such terms and conditions as its discretion may dictate; provided, that in no case shall the public be deprived of its rightful, equal, and uniform use of its airports and air navigation facilities.

(7) For the purpose of promoting the safety of its airports and for the general welfare of air transportation the commission is empowered by regulation to restrict the height of any building, structure or obstruction including but not limited to towers, dwellings, trees, or any other object which might constitute a hazard to air transportation at its facilities within the area herein described. The commission may by regulation restrict the construction or erection of any building, structure or obstruction on lands located on the projection of any runways of its airport facilities at a height above a glide angle for aircraft of fifty feet to one foot measured outward from the boundaries of the end of any runway at said airport, for a distance of up to ten thousand feet along a prolongation of the center line of said runways and extending laterally from the projection of said center lines of said runways from a distance of one thousand feet each way at the airport boundary, increasing to a lateral distance of four thousand feet each way from the center of any runway at a distance of ten thousand feet from the boundary of ~~said~~ the airport.

It ~~may also~~ also may by regulation restrict the erection of any building or other type construction of any nature whatsoever on lands adjacent to its air transport facilities at any point adjacent to them, not covered by the preceding paragraphs, at a height above a glide angle for aircraft of fifteen feet to one foot, measured outward from the boundaries of any such air facilities for a distance of twenty‑five hundred feet.

The commission shall if it shall undertake to adopt regulations prohibiting such construction, conduct a public hearing prior to taking action of their own. Notice of such public meeting shall be published in a newspaper of general circulation within the district not less than seven days prior to the occasion fixed for the holding of such meeting. Such notice shall state the time and place of the meeting and shall briefly indicate the scope of the proposed regulation. At such public meeting all persons affected by the proposed regulation shall be entitled to appear and to be heard. If following such a meeting the regulation restricting the erection of any such buildings or structures as was herein described is adopted, notice of the adoption of the regulation shall be given by filing a certified copy thereof in the office of the Clerk of Court for Richland County and in the office of the Clerk of Court for Lexington County and additional copies shall be posted in the Courthouse for Richland County and in the Courthouse for Lexington County and in at least two public places within the district; and notice of the adoption of such regulations shall be published at least once during each of three successive weeks in a newspaper published in and having general circulation in the district. Such regulations shall become effective only after the foregoing shall have been done.

The commission is expressly authorized to apply to any court of general jurisdiction within the district for the enforcement of such regulations through the means of mandatory injunctions and other remedial proceedings and such courts are specifically empowered to render mandatory injunctions and such other remedial orders as shall appear to such courts to be just and reasonable.

The provisions of this ~~paragraph~~ item (7) are hereby declared separable from the remaining provisions of this article and the invalidity hereof shall not affect or extend to the remaining provisions of this article.

(8) To place in effect, and, from time to time, revise such schedules of licenses, rates, and charges for the use of its facilities as may be necessary or desirable to the orderly operation of its airport facilities, provided, that all such licenses, rates and charges shall be reasonable and nondiscriminatory; provided, further, that the provisions of this section shall not be construed to be in conflict with the provisions of ~~paragraph~~ item (6), supra, which authorize the leasing of land and buildings auxiliary to its airport facilities.

(9) To exercise the power of eminent domain for any corporate function. The power of eminent domain may be exercised through any procedure prescribed by Section 28‑9‑10 through Section 28‑9‑110. All powers conferred on municipalities under such provisions are conferred hereby on the Richland‑Lexington Airport Commission.

(10) To appoint officers, agents, employees and servants, and to prescribe the duties of such, including the right to appoint persons charged with the duty of enforcing the rules and regulations promulgated pursuant to the provisions of this article, to fix their compensation, and to determine if, and to what extent they shall be bonded for the faithful performance of their duties.

(11) To employ engineers, architects and attorneys, and to contract for such other services of a technical or professional nature as may be necessary or desirable to the performance of the duties of the commission.

(12) To make contracts for the construction, erection, maintenance and repair of the facilities in its charge, ~~by competitive bidding, after ten days published notice, if such contracts are in excess of ten thousand dollars; if the contracts are less than ten thousand dollars, then to enter into such contracts without competitive bids~~ according to the provisions of the State Procurement Code, Chapter 35, Title 11.

(13) To deposit monies derived from the sale of any bonds authorized to be issued under the provisions of this article or from revenue‑producing facilities in any bank or trust company having an office within the district, and to withdraw the same for the purpose of operating, maintaining, constructing, improving and extending any facility in its charge.

(14) To apply for, accept, receive, receipt for, disburse, and expend Federal, State, county, or municipal monies and other monies, public or private, made available by grant or loan, or both, to accomplish, in whole or in part, any of the purposes of this article, and to this end, to continue to prosecute any application heretofore filed with the Federal Aviation Agency, or any other Federal agency, by the City of Columbia, and to pay from the funds of the district any costs hereafter incurred for any services rendered, since the date the application was filed, in connection with the procuring or processing of the application which is found by the commission to legitimately inure to the benefit of the Richland‑Lexington Airport District. All Federal monies accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the United States, and as are consistent with State law; and all other monies accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the State or other sources thereof.

(15) To pay for any services rendered for the benefit of the district from February 24, 1961 to July 9, 1973 which are found by the Commission to legitimately inure to the benefit of the Richland‑Lexington Airport District.

(16) To accept donations of all sorts, including a deed of conveyance by Lexington County ~~or~~ and the City of Columbia of its right, title, and interest in and to lands intended to form the site of the airport facility to be constructed by the district and to accept from the City of Columbia a relinquishment of any leasehold interest or estate now possessed by the City of Columbia.

(17) Invest the funds or ~~moneys~~ monies in its possession, eligible for investment, in the shares of any federal savings and loan association or in the shares of any building and loan association organized and existing under the laws of this State when such shares are insured by the Federal Savings and Loan Insurance Corporation.

(18) To issue under the conditions prescribed in ~~paragraph~~ item (20) of this section general obligation bonds of the district in an amount not exceeding two million seven hundred thousand dollars.

(19) In addition to the powers given by ~~paragraph~~ item (18) of this section, to borrow on behalf of the district money and to make and issue negotiable bonds, notes, and other evidences of indebtedness payable solely from the revenue derived from the operation of any revenue‑producing facility, or facilities, in its charge. The sums borrowed may be those needed to pay costs incident to the operation and maintenance of its airport facilities or such sums as may be needed to pay the costs of any extension, addition, or improvement to its airport facilities, or both. If the method of financing authorized by this ~~paragraph~~ item is used, neither the faith and credit of the State of South Carolina, nor of any county lying within the district, nor of the district itself shall be pledged to the payment of the principal and interest of the obligations, and there shall be on the face of such obligation a statement, plainly worded, to that effect. Neither the members of the commission nor any person signing the obligations shall be personally liable thereon. In order that a convenient procedure for borrowing money pursuant to this paragraph may be prescribed, the district shall be fully empowered to avail itself of all powers granted by Chapter 21, Title 6, as now and hereafter amended, and Chapter 17, Title 6, as now or hereafter amended. In exercising the powers conferred upon the district by such code provisions, the district may make all pledges and covenants authorized by any provision thereof, and may confer upon the holders of its securities all rights and liens authorized by such code provisions. Specifically and notwithstanding contrary provisions in any such Code provisions, the district may:

(a) Provide that such bonds, notes, or other evidences of indebtedness be payable, both as to principal and interest, from the net revenues derived from the operation of any revenue‑producing facility or facilities, as such net revenues may be defined by the Commission.

(b) Covenant and agree that upon its being adjudged in default as to the payment of any installment of principal and interest upon any obligation issued by it or in default as to the performance of any covenant or undertaking made by it, that in such event the principal of all obligations of such issue may be declared forthwith due and payable, notwithstanding that any of them may not have then matured.

(c) Confer upon a corporate trustee the power to make disposition of the proceeds from all borrowings and also all revenues derived from the operation of the revenue‑producing facility whose revenues are pledged for the payment of such obligations, in accordance with and in the order of priority prescribed by resolutions adopted by the commission as an incident to the issuance of any notes, bonds, or other evidences of indebtedness.

(d) Dispose of its obligations at public or private sale and upon such terms and conditions as it shall approve.

(e) Make such provision for the redemption of any obligations issued by it prior to their stated maturity, with or without a premium, and on such terms and conditions as the Commission shall approve.

(f) Covenant and agree that any cushion fund established to further secure the payment of principal and interest of any obligation shall be in a fixed amount.

(g) Covenant and agree that it will not enter into any agreements with any person, firm, corporation, or with the government of this State, the United States, or any of the political subdivisions of the same for the furnishing of free services where such services are ordinarily charged for.

(h) Prescribe the procedure, if any, by which the terms of the contract with the holders of its obligations may be amended, the number of obligations whose holders must consent thereto, and the manner in which such consent shall be given.

(i) Prescribe the evidences of default and conditions upon which all or any obligation shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived.

(20) The commission, on behalf of the district, shall be empowered to issue not exceeding two million seven hundred thousand dollars of general obligation bonds of the district, whose proceeds shall be used to defray the cost of constructing and establishing suitable airport facilities within the district. For the purpose of this section, the term ‘construct and establish’ shall embrace the cost of direct construction, the cost of all land, property, rights, easements, and franchises acquired (in addition to such property as may be conveyed to the district by Lexington County and the City of Columbia) which are deemed necessary for the construction and use of runways, terminal buildings, maintenance shops, freight depots, service establishments, and any and all facilities incident, or in anywise appurtenant, to an airport facility, and all machinery and equipment needed therefor, payments to contractors, laborers, or others for work done or material furnished, financing charges, interest incurred in connection therewith, interest on the bonds herewith authorized for not exceeding eighteen months, cost of engineering services, architectural services, legal services, legal and engineering expenses, plans, specifications, surveys, projections, drawings, brochures, administrative expenses and such other expenses as may be necessary or incident to the construction and operation of an airport facility within the district, hereafter incurred, for the purposes for which the district is created. All or any general obligation bonds issued pursuant to this paragraph shall conform to the following specifications and be subject to the following procedures:

(a) They shall be issued as a single issue, or from time to time as several separate issues. They shall bear such date or dates as the commission shall determine, and bonds of any issue shall mature in such equal or unequal installments as may be determined by the commission. They shall be made payable at such place or places as the commission shall prescribe, and they shall bear interest at such rate or rates, and shall be payable in such manner as the commission may determine. The bonds may be issued with the privilege of having them registered as to principal on the books of the commission and the principal thus made payable to the registered holder (unless the last registered transfer shall have been to bearer), upon such conditions as the commission may prescribe. Any bond issued pursuant to this ~~paragraph~~ item may be made subject to redemption prior to its stated maturity, on such terms and conditions and with such redemption premium as the commission shall prescribe.

(b) They shall be sold at not less than par and accrued interest to the date of their respective deliveries at public sale. At least ten days prior to any sale, notice announcing the intention to receive bids for sale of such bonds shall be published in a newspaper of general circulation in the State of South Carolina. In offering the bonds for sale, the commission shall reserve the right to reject any and all bids, and if all bids shall be rejected, the commission may negotiate privately for the disposition of such bonds.

(c) Such bonds and all interest to become due thereon shall have the tax exempt status prescribed by Section 12‑1‑60.

(d) All general obligation bonds issued pursuant to this article shall be manually signed by the chairman of the commission. The seal of the district shall be affixed to, impressed or reproduced upon each of such bonds, and each of such bonds shall be attested by the secretary of the commission. The coupons attached to such bonds shall be authenticated by a facsimile of the signatures of the chairman and the secretary of the commission, who shall be in office on the date of the adoption of the resolution of the commission authorizing the bonds.

(e) The delivery of any bonds so executed and authenticated shall be valid notwithstanding any changes in officers or seal occurring after such execution and authentication.

(f) There shall be irrevocably pledged for the payment of such bonds and interest as they mature the full faith, credit and resources of the district. Until the principal and interest of all bonds issued under this article shall be fully paid, there shall be levied on all taxable property in the district an annual tax ad valorem sufficient to pay the principal and interest of all bonds issued under this article as such principal and interest becomes due. The tax shall be annually levied by the Comptroller General of South Carolina and collected by the county treasurers of Richland and Lexington Counties at the same time and in the same manner as county taxes are collected. Each of the county treasurers shall collect the tax in his county and pay the same to the State Treasurer in the manner and within the time heretofore provided by law for the payment of state taxes to the State Treasurer, who shall set them apart in a special fund and apply them solely to the payment of principal and interest of the bonds so long as any such principal or interest remains outstanding. The tax to be levied under the provisions of this ~~paragraph~~ item shall not be substantially greater than the amount necessary to pay principal and interest of bonds maturing during the year in which moneys produced by such levy will come into the hands of the State Treasurer, as reduced by the anticipated balance of funds actually in the hands of the State Treasurer, on the occasion when it becomes necessary to fix such tax levy, produce by: (a) additional collections from such levies made in prior years; (b) net revenues derived by the commission from the operation of its facilities not required to meet costs of operating, maintaining, enlarging and improving its facilities, or to discharge covenants securing bonds issued pursuant to ~~paragraph~~ item (19). When all principal and interest of outstanding bonds have been paid, the State Treasurer shall transfer any balance remaining in the special fund created under the terms of this paragraph to the general fund of the commission subject to its draft or order for any legitimate purpose incident to the operation, maintenance or extension of the district’s airport facilities.

(g) The proceeds derived from the sale of such bonds shall be deposited with the Treasurer of the State of South Carolina in a separate and special fund, and shall be subject to transfer, upon warrants or orders of the commission, to any bank or trust company having an office within the district, to be expended by the commission for the purposes specified herein, and no others; provided, however, that any premium received shall be deposited with the Treasurer of the State of South Carolina and applied by him to the first installment of principal becoming due on the bonds, and any accrued interest received shall be applied by the State Treasurer to the first installment of interest becoming due on the bonds and provided, further, pending such withdrawals, the Treasurer of South Carolina shall, upon the request of the commission, be empowered to invest and reinvest the proceeds derived from the sale of the bonds in direct general obligations of the United States of America having a maturity of not more than one year from the date as of which such investment shall be made. Income derived from such investments shall be applied to the payment of any interest to accrue on the general obligation bonds of the district. Neither the purchaser of the bonds nor any subsequent holders thereof shall be responsible for the proper application of the proceeds of sales.

(21) Do all other acts and things necessary or convenient to carry out any function or power committed or granted to the district.

Section 55‑11‑350. The Richland‑Lexington Airport Commission is authorized to adopt ~~and promulgate~~ rules and promulgate regulations governing the use of roads, streets, and buildings, ~~and~~ parking facilities, and all other airport faculties upon the lands of the Richland‑Lexington Airport Commission. Such rules and regulations shall not be in conflict with any State law and all State laws are hereby declared to be applicable to the roads, streets and parking facilities under the control of the commission. The rules and regulations authorized herein shall be effective when filed with the Director of the Columbia Metropolitan Airport and in accordance with Section 1‑1‑210.

The Richland‑Lexington Airport Commission is authorized to employ police officers to be commissioned by the Governor who shall enforce all laws, rules and regulations authorized herein and shall, in addition, have authority to issue summonses for violations thereof in the manner provided for South Carolina State Highway Patrolmen.

Persons violating any of the applicable laws within a magistrate’s jurisdiction or any of the rules or regulations of the commission shall be tried by magistrates having jurisdiction of the area in which the violation occurred.

~~Any~~ A person violating the provisions of any ~~of the rules and regulations~~ rule or regulation of the ~~Commission shall be~~ commission is ~~deemed~~ guilty of a misdemeanor and, upon conviction, ~~fined not more than one hundred dollars or be imprisoned for not more than thirty days~~ must be sentenced not more than the maximum fine or imprisonment allowed in magistrates court.

All fines and forfeitures collected under the provisions of this article shall be forwarded weekly to the Richland‑Lexington Airport Commission by the enforcing magistrate, to be credited to the general operating fund of the district.

Notwithstanding the provisions of this section, any public road, street, or highway located in the Richland‑Lexington Airport District which is contiguous to or intersects the corporate limits of a municipality is within the police jurisdiction of that municipality. Summonses issued by municipal police officers in the jurisdiction authorized pursuant to this ~~paragraph~~ section must be tried in municipal court, and all fines and forfeitures collected under the provisions of this paragraph may be retained by the enforcing municipality.

Section 55‑11‑351. It is unlawful for a person or group of persons wilfully and knowingly to:

(1) enter or remain on an airport’s roads, streets, buildings parking facilities, or other airport properties unless the person is authorized by airport rules and regulations when entry is done for the purpose of uttering loud, threatening, and abusive language, or to engage in disorderly or disruptive conduct with the intent to impede, disrupt or disturb the orderly conduct of business by airport or airport tenants’ employees;

(2) obstruct or impede passage on an airport’s properties or buildings; or

(3) engage in an act of physical violence upon airport properties or buildings.

Section 55‑11‑355. No property of the Richland‑Lexington Airport District is a barrier to the contiguity requirements for the purposes of annexation. Any municipality which is contiguous to property owned by the district may annex, as provided by law, any property contiguous to the district.

Section 55‑11‑360. All revenues derived by the commission from the operation of any revenue‑producing facility which may not be required to operate, maintain, enlarge and improve its airport facilities, or to pay obligations incurred in the issuance of any revenue bonds sold pursuant to the authorizations of ~~paragraph~~ item (19), Section 55‑11‑340, shall be paid over to the State Treasurer, and held by him for the payment of interest and principal of general obligation bonds of the district.

Section 55‑11‑370. The rates charged for services furnished by any revenue‑producing facility of the district as constructed, improved, enlarged or extended, shall not be subject to supervision or regulation of any State bureau, commission, board or other like instrumentality or agency thereof.

Section 55‑11‑380. Property and income of the district shall be exempt from all taxes levied by the State, county or any municipality, division, subdivision or agency thereof, direct or indirect.

Section 55‑11‑390. So long as the district shall be indebted to any person, firm or corporation on any bonds, notes, or other obligations issued pursuant to the authority of this article, provisions of this article and the powers granted to the district and the commission shall not be in any way diminished and the provisions of this article shall be deemed a part of the contract between the district and the holders of such obligations.

Section 55‑11‑400. The governing body of the county of Richland and the governing body of the county of Lexington are hereby authorized and directed to make, execute and deliver a contract, each with the other, agreeing to pay to the Richland‑Lexington Airport Commission, in equal amounts, the funds necessary to meet the annual operating deficit, if any, of the Richland‑Lexington Airport Commission or to provide for the commission sufficient funds to prevent any such deficit from arising by annual equal payments to the Commission’s anticipated budget.

Section 55‑11‑410. There shall be provided in the annual act levying taxes for county purposes by Richland County and Lexington County appropriations sufficient to carry out the provisions of Section 55‑11‑400.

In the event that the County of Richland or the County of Lexington, or either of them, should fail or refuse to make any such contract, or if such contract should be made and there should be a default thereunder, and for either of such reasons or for any other reason the County of Richland or the County of Lexington should fail to provide its one‑half share of the operating deficit, the Comptroller General of the State of South Carolina is authorized and directed to withhold from the ~~moneys~~ monies to be received by the County of Richland or the County of Lexington, as the case may be, from the annual distribution made by the State of South Carolina to counties and municipalities from its receipts from the taxes levied by the State of South Carolina on alcoholic beverages, beer and wine, and on personal and corporate income an amount sufficient to pay such share or shares of the operating deficit.

Section 55‑11‑420. The provisions of this article shall not prohibit the operation of any public or private airport located within the district by any other public agency or governmental authority, or by any private agency or person.

Article 7

State Funding of Air Carrier Hub Terminal Facilities

Section 55‑11‑500. As used in this article:

(a) An ‘air carrier hub terminal facility’ is an airport terminal facility from which an air carrier certified or licensed by the Federal Aviation Administration, within five years from the date of issuance of the obligations described in this article, operates either:

(1) at least twenty common carrier departing flights a day on which the general public may fly seven days a week, fifty‑two weeks a year. No less than seventy percent of all seats on these aircraft arriving at or departing from an air carrier terminal facility must be on jet aircraft capable of carrying at least one hundred passengers on each flight;

(2) at least twenty common carrier departing flights a week on an annual basis for the purposes of transporting cargo and air freight; or

(3) irrespective of the number of flights, two or more specially equipped planes that are:

(i) used for the transportation of specialized cargo; and

(ii) subject to ad valorem property taxation or a fee in lieu of taxes in this State.

(b) An air carrier is a corporation licensed by the Federal Aviation Administration with a certificate of public convenience and necessity or an operating certificate under other applicable federal law or pertinent regulations which operates aircraft to or from an air carrier hub terminal facility as defined in this section.

(c) ‘Board’ means the State Budget and Control Board.

(d) ‘Bonds’ mean general obligation bonds of this State.

(e) ~~‘Secretary’ means the Secretary of the Department of Commerce~~ ‘Executive Director’ is defined in Section 55‑1‑5(9).

Section 55‑11‑505. The term ‘air carrier hub terminal facility’ includes an economic development project as defined in Section 11‑41‑30(2) that is functionally related to a facility satisfying one of the criteria in Section 55‑11‑500(a).

Section 55‑11‑510. (A) A special purpose district or political subdivision of the State may petition the State for assistance hereunder. Upon receipt of such a petition, the State, from the proceeds of the sale of bonds authorized by Section 55‑11‑520, is authorized to pay a portion or all of the costs of any insurance required to guarantee the payment of, or any credit enhancement facility utilized in connection with, obligations issued or to be issued by a special purpose district or other political subdivision of this State, for the purposes of acquiring land for and constructing and equipping air carrier hub terminal facilities; except that the amount of fees paid by the State to purchase this insurance or other credit enhancement facility must not exceed one and one‑half percent of the principal plus all interest payable on obligations issued by a special purpose district or other political subdivision of this State. The cost of this insurance or other credit enhancement facility may be paid by the State directly to the provider of it, or by way of reimbursement to the special purpose district or political subdivision.

(B) In addition, after review by the Joint Bond Review Committee, the board may allocate bond proceeds for the purposes authorized in Section 55‑11‑520 to match on a dollar‑for‑dollar basis, local funds expended for the purposes authorized in Section 55‑11‑520 by any special purpose district or other political subdivision of this State. Local funds may include user fees and other monies made available by the special purpose district or political subdivision, but may not include federal grants made available to the special purpose district or other political subdivision for runway construction.

Section 55‑11‑520. (A) Pursuant to the provisions of subsection 6(c), Section 13, Article ~~10~~ X of the Constitution of this State, in order to provide funds to pay a portion of the costs of (1) acquiring land, (2) constructing, enlarging, improving, extending, renovating, and equipping suitable air carrier hub terminal facilities to be located in this State, (3) purchasing equipment, ground support equipment, machinery, special tools, maintenance, boarding facilities, and any and all additional necessary real or personal property for the operation of air carrier hub terminal facilities, and (4) if petitioned by a special purpose district or other political subdivision of the State, to pay a portion or all of the costs described in Section 55‑11‑510, not exceeding fifty million dollars of general obligation bonds of this State, to be outstanding at any time may be issued in the manner provided in this article and by law.

(B) A request that bonds be issued pursuant to this article must be accompanied by a binding contract with either an air carrier or the principal user of the air carrier hub terminal facilities to be financed with the issuance of the obligations described in this article, committing the entity to use the air carrier hub terminal facility for a period of five years or the period of time needed to retire any indebtedness incurred to construct the air carrier hub terminal facility, whichever is less. Upon receipt of a certified copy of the executed contract, the ~~secretary~~ executive director shall consider the entity’s financial ability, willingness, and commitment to serve this State and other factors considered relevant by the ~~secretary~~ executive director. If the ~~secretary~~ executive director determines that it is in the best interest of this State for the State to provide or to assist in the providing of suitable air carrier hub terminal facilities, the ~~secretary~~ executive director shall recommend that the board consider approving the issuance of bonds of this State for the purposes authorized in this article and shall forward his written approval and request to the Joint Bond Review Committee and the board. The approval and request must be accompanied by a certificate of the ~~secretary~~ executive director establishing:

(1) the maximum principal amount of the bonds then requested to be authorized;

(2) a description of the infrastructure for which the bonds are to be issued, including a certification from the ~~secretary~~ executive director that the facility is an air carrier hub terminal facility as defined in Section 55‑11‑500(a);

(3) a tentative time schedule for the time during which the sum requested is to be expended; and

(4) the then‑outstanding principal amount of, and the debt service requirements for, all bonds previously issued pursuant to this section.

(C) Following the receipt of the approval and request described in subsection (B), and after approval by the Joint Bond Review Committee, the board may approve the issuance of bonds pursuant to this article. In connection with the approval, the board shall adopt a resolution setting the terms and conditions for the execution, sale, delivery, interest payments, maturities, and redemption of the bonds. For the payment of the principal and interest on all bonds issued and outstanding pursuant to this article, there is pledged the full faith, credit, and taxing power of the State of South Carolina, and in accordance with the provisions of ~~paragraph~~ subsection (4) ~~of~~, Article X, Section 13, of the South Carolina Constitution, the General Assembly hereby allocates on an annual basis sufficient tax revenues to provide for the punctual payment of the principal and interest on the bonds authorized by this article.

Article 9

Florence, Marion, and Dillon Counties

Section 55‑11‑610. The territory of the counties of Florence, Marion, and Dillon is constituted an airport district and a political subdivision of this State, the functions of which are public and governmental and the inhabitants of the territory are constituted a body politic and corporate. The corporate name of the airport district is the Pee Dee Regional Airport District, and by that name the airport district may sue and be sued.

Section 55‑11‑620. The corporate powers and duties of the Pee Dee Regional Airport District must be exercised and performed by an authority to be known as the Pee Dee Regional Airport Authority which consists of nine members. Two members must be residents of the City of Florence appointed by the Governor upon recommendation of the Florence City Council. Three members must be residents of the County of Florence appointed by the Governor on the recommendation of the Florence County Council. Two members must be residents of each of the counties of Marion and Dillon appointed by the Governor on the recommendation of the respective county councils. Terms of office are for four years, except that of those initially appointed one member from each of the three counties must be appointed for two‑year terms. No member shall serve more than two four‑year terms. All members shall serve until their successors are appointed and qualify. Vacancies on the authority must be filled in the manner of their original appointment for the unexpired term. The authority shall elect its own officers with terms and duties as determined by the authority. The members of the authority must be compensated at the per diem rate of fifty dollars a meeting, not to exceed twelve meetings a year until such time as the amount is increased by the councils of the counties.

Section 55‑11‑630. ~~(A)~~ The authority shall perform the functions of planning, establishing, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, protecting, and policing such airports, air navigation, railroad, and other facilities as are necessary to serve the people of the district and the public generally. The authority may:

(1) have and enjoy perpetual succession;

(2) adopt, use, and alter a corporate seal;

(3) make bylaws for the management and regulation of its affairs, and define a quorum for its meetings, and appoint such subcommittees as it considers appropriate from within and without the authority to advise the authority;

(4) plan, establish, develop, construct, enlarge, improve, maintain, including the power to establish a reasonable reserve for maintenance, equip, operate, regulate, protect, and police its airports and air navigation facilities under such reasonable regulations as the authority may promulgate;

(5) construct, maintain, and extend runways, terminals, maintenance shops, access roads, parking facilities, utilities systems, concessions, accommodations, and other facilities of whatever nature or kind for the comfort and accommodation of air travelers and air freight; purchase and sell supplies, goods, and commodities as an incident to the operation of its airport facilities; and for all these purposes, the authority may, by purchase, gift, devise, lease, eminent domain proceedings, or otherwise, acquire, hold, develop, and use, as well as lease, mortgage, sell, transfer, and dispose of any property, real or personal, or any interest in it, including easements in or over land needed to prevent airport hazards, or land outside the boundaries of its airports and air navigation facilities necessary to permit the removal, elimination, obstruction‑marking, or obstruction‑lighting of airport hazards, or to prevent the establishment of airport hazards. However, the authority may not dispose of any interest in real property without first notifying the chairman of each of the governing bodies of Florence, Marion, and Dillon counties and conducting a public hearing which hearing must be advertised not less than seven days before the hearing in a newspaper or newspapers of general circulation in the district. For the purpose of this article, utilities systems means only facilities for the connection with and the provision of water or sewer services by the water and sewer systems of the City of Florence, its successors, and assigns;

(6) license, lease, sublease, rent, sell, or otherwise provide for the use of any real or personal property of its airport facilities or of facilities auxiliary to it, including the privilege of supplying goods, commodities, things, services, or facilities at the airport by itself or by any qualified persons or corporations, on terms and conditions as its discretion may dictate. The public may not be deprived of its rightful, equal, and uniform use of its airports and air navigation facilities;

(7)(a) promulgate regulations pursuant to and in accordance with Section ~~55‑9‑240~~ 55‑9‑250 and Federal Aviation Regulations, Part 77;

(b) apply to any court of general jurisdiction within the district for the enforcement of the regulation through the means of mandatory injunctions and other remedial proceedings, and these courts are specifically empowered to render mandatory injunctions and other remedial orders as it appears to them to be just and reasonable;

(8) exercise the power of eminent domain for any corporate function through procedure prescribed in Chapter 2 ~~of~~, Title 28;

(9) appoint officers, agents, employees, and servants and prescribe the duties of them, including the right to appoint persons charged with the duty of enforcing the regulations promulgated pursuant to the provisions of this article, fix their compensation, and determine if, and to what extent, they must be bonded for the faithful performance of their duties;

(10) employ or contract for services of a technical or professional nature as may be necessary or desirable to the performance of the duties of the authority;

(11) contract for the construction, erection, maintenance, and repair of the facilities in its charge, through any procedure prescribed by law;

(12) acquire, construct, maintain, equip, and operate connecting, switching, terminal, or other railroads. The term ‘railroad’ includes, but is not limited to, tracks, spurs, switches, terminal, terminal facilities, road beds, ~~rights‑of‑way~~ rights of way, bridges, stations, railroad cars, locomotives, or other vehicles constructed for operation over railroad tracks, crossing signs, lights, signals, storage, administration, and repair buildings, and all structures and equipment which are necessary for the operation of a railroad; and

(13) develop all of the lands leased by, subleased by, owned by, or under the jurisdiction of the authority.

Section 55‑11‑635. (A) For the fiscal year beginning July 1, 1998, the governing bodies of Florence, Marion, and Dillon Counties shall fund for the authority and its purposes an amount equal to one dollar per capita for each person in that county. Thereafter the amount shall equal sixty cents per capita.

(B) Beginning with the fiscal year beginning July 1, 1999, the appropriation set forth above may be increased by request of the authority upon approval by ordinance of the county councils of the three counties.

Section 55‑11‑640. (A) The authority is authorized to adopt and promulgate regulations governing the use of roads, streets, and parking facilities upon the lands leased by, subleased by, owned by, or under the jurisdiction of the authority. All state laws are declared to be applicable to the roads, streets, and parking facilities under the control of the authority.

(B) The authority may employ police officers to be commissioned by the Governor who shall enforce all laws and regulations authorized under the provisions of this article and, in addition, shall have authority to issue summonses for violations of them in the manner provided for South Carolina State Highway Patrolmen.

(C) Persons violating any of the applicable laws within a magistrate’s jurisdiction or any of the regulations of the authority must be tried by magistrates having jurisdiction of the area in which the violation occurred.

(D) Any person violating the provisions of any of the regulations of the authority is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.

(E) All fines and forfeitures collected under the provisions of this article must be forwarded to the authority to be credited to the general operating fund of the county where the final disposition of the case is made.

Section 55‑11‑650. (A) For the purpose of this article, the authority may:

(1) deposit monies derived from the sale of bonds authorized to be issued under the provisions of this article or from revenue‑producing facilities in any bank or trust company having an office within the district and to withdraw them for the purpose of operating, maintaining, constructing, improving, and extending any facility in its charge.

(2) apply for, accept, receive, receipt for, disburse, and expend federal, state, county, or municipal monies and other monies, public or private, made available by grant or loan, or both, to accomplish, in whole or in part, any of the purposes of this article, and, to this end, to continue to prosecute any application previously filed with the Federal Aviation Agency, or any other federal agency, by the Florence City‑County Airport Commission, and to pay from the funds of the district any costs incurred for any services rendered since the date the application was filed in connection with the procuring or processing of the application which is found by the authority to legitimately inure to the benefit of the district. All federal monies accepted under this section must be accepted and expended by the authority upon those terms and conditions prescribed by the United States and consistent with state law. All other monies accepted under this section must be accepted and expended by the authority upon the terms and conditions prescribed by the State or other sources.

(3) accept donations of all sorts, including a deed of conveyance by any landowners of the landowner’s right, title, and interest in and to lands within the district, and to accept relinquishments of any leasehold interest or estate now possessed by the City or County of Florence on or in lands or property on airport property.

(B) The district may issue negotiable bonds, notes, and other evidences of indebtedness payable solely from the gross revenues or net revenues derived from the operation of any revenue‑producing facility, or facilities, in its charge. The sums borrowed may be those needed to pay the costs of any extension, addition, or improvement to its airport facility. The proceeds of the bonds may, in addition, be used to refund any bonds issued under the provisions of this article, to pay interest during the estimated construction period of the project being financed, to fund any necessary reserves for the bonds, to purchase any necessary credit enhancement for the bonds, and to pay costs of issuance of the bonds. If the method of financing authorized by this subsection is used, neither the faith and credit of the State of South Carolina, nor of any county lying within the district, nor of the district itself, may be pledged to the payment of the principal and interest of the obligations, and there must be on the face of the obligation a statement, plainly worded, to that effect. Neither the members of the authority nor any person signing the obligations are personally liable on them. In order that a convenient procedure for borrowing money pursuant to this subsection may be prescribed, the authority may use the provisions of Chapter 21, Title 6 and Chapter 17, Title 6. In exercising the powers conferred upon the district by those code provisions, the authority may make all pledges and covenants authorized by the provisions of them and may confer upon the holders of its securities all rights and liens authorized by these code provisions. Specifically, and notwithstanding contrary provisions in those code provisions, the district may:

(1) provide that the bonds, notes, or other evidences of indebtedness are payable, both as to principal and interest, from the gross revenues or net revenues derived from the operation of any revenue‑producing facility or facilities, as the gross revenues or net revenues may be defined by the authority, and to impose a lien upon the facilities, the revenues of which are pledged to the payment of the bonds enforceable to the same extent and in the same manner as the statutory lien described in Sections 6‑21‑330 through 6‑21‑360;

(2) provide that the bonds must be issued as serial or term bonds, maturing in equal or unequal amounts, at such times and on occasions as the authority determines. They must bear such rates of interest, payable on such occasion, as the authority prescribes, and the bonds are in such denominations, are payable in such medium of payment, and at such place as the authority prescribes. All bonds may be issued with a provision permitting their redemption prior to their respective maturities. Bonds made subject to redemption before their stated maturities may contain a provision requiring the payment of a premium for the privilege of exercising the right of redemption, in such amount or amounts as the authority prescribes. All bonds that are subject to redemption must contain a statement to that effect on the face of each bond. The resolution authorizing their issuance must contain provisions specifying the manner of call and the notice of call that must be given. Notwithstanding anything in this chapter to the contrary, the authority may issue bonds which, in lieu of paying current interest periodically, pay an accreted value at maturity;

(3) authorize the officer or officers of the authority to execute the bonds, by manual or facsimile signature, as the authority considers necessary; bonds may be in the form of registered bonds or may be issued in coupon form, payable to bearer, or, in the discretion of the authority, may be issued as fully registered uncertificated book‑entry securities;

(4) covenant and agree that upon its being adjudged in default as to the payment of any installment of principal and interest upon any obligation issued by it or in default as to the performance of any covenant or undertaking made by it, that in that event the principal of all obligations of the issue may be declared immediately due and payable, notwithstanding that any of them may not have then matured, and that any court having jurisdiction in any proper action may appoint a receiver to administer and operate the facilities whose revenues must be pledged for the payment of the bonds, with power to fix rates and charges for the facilities, sufficient to provide for the payment of the expense of operating and maintaining such facilities, and to apply the income and revenues of the facilities to the payment of the bonds, and the interest on them;

(5) confer upon a corporate trustee the power to make disposition of the proceeds from all borrowings and also all revenue‑producing facilities whose revenues are pledged for the payment of the obligations, in accordance with and in the order of priority prescribed by resolutions adopted by the authority as an incident to the issuance of any notes, bonds, or other evidences of indebtedness;

(6) dispose of its obligations at public or private sale and upon such terms and conditions as it approves;

(7) covenant and agree that a reserve fund must be established to further secure the payment of principal and interest of any obligation;

(8) covenant and agree that it will not enter into any agreements with any person, firm, corporation, or with the government of this State, the United States, or any of the political subdivisions of the same, for the furnishing of free services where the services are ordinarily charged for;

(9) prescribe the procedure, if any, by which the terms of the contract with the holders of its obligations may be amended, the number of obligations whose holders must consent to it, and the manner in which the consent must be given;

(10) prescribe the evidence of default and conditions upon which all or any obligation becomes or may be declared due before maturity and the terms and conditions upon which the declaration and its consequences may be waived;

(11) covenant to establish and maintain such system of rules as will ensure the continuous use and occupancy of the facilities whose revenues are pledged to secure any bonds;

(12) covenant that an adequate schedule of charges will be established and maintained for the facilities designated by the authority, whose revenues must be pledged to secure any bonds, to the extent necessary to produce sufficient revenues to:

(a) pay the cost of operating and maintaining the facilities, whose revenues or net revenues must be pledged for the payment of the bonds, including the cost of fire, extended coverage, and use and occupancy insurance;

(b) pay the principal and interest of the bonds as they respectively become due;

(c) create and at all times maintain an adequate debt service reserve fund to meet the payment of the principal and interest; and

(d) create and at all times maintain an adequate reserve for contingencies and for major repairs and replacements.

(C) The authority, on behalf of the district, may issue general obligation bonds of the district, whose proceeds must be used to defray the cost of constructing and establishing an airport facility within the district. In order that a convenient procedure for borrowing money pursuant to this subsection may be prescribed, the authority may use the provisions of Article 5, Chapter 11, Title 6. For the purpose of this section, the term ‘construct and establish’ means the cost of direct construction, the cost of all land, property, rights, easements, and franchises acquired (in addition to property conveyed to the district by the City or County of Florence) which are considered necessary for the construction and use of runways, terminal buildings, maintenance shops, freight depots, service establishments, and any and all facilities incident, or in any way appurtenant, to an airport facility, and all machinery and equipment needed for it, payments to contractors, laborers, or others for work done or material furnished, financing charged, interest incurred in connection with it, interest on the bonds authorized by this article, cost of engineering services, architectural services, legal services, legal and engineering expenses, plans, specifications, surveys, projections, drawings, brochures, administrative expenses, and such other expenses as may be necessary or incident to the construction of any airport facility within the district incurred for the purposes for which the district is created.

(D) The district shall do all other acts and things necessary or convenient to carry out any function or power committed or granted to the district.

(E) All bonds issued pursuant to this article and all interest to become due on them have the tax‑exempt status prescribed by Section 12‑2‑50.

(F) It is lawful for all executors, administrators, guardians, and fiduciaries, all sinking fund commissions, the State Budget and Control Board, as trustee of the South Carolina Retirement System, and all other governmental entities within the State to invest any monies in their hands in the bonds issued pursuant to this chapter.

Section 55‑11‑660. All revenues derived by the authority from the operation of any revenue‑producing facility which may not be required to operate, maintain, enlarge, and improve its airport facilities, or to create any necessary reserves for them, or to pay obligations incurred in the issuance of any revenue bonds sold pursuant to the resolution or resolutions adopted by it in connection with the issuance of the bonds may, in the discretion of the authority, either:

(1) create surplus revenues to be used for future capital projects of the authority;

(2) used to reduce the outstanding bonded indebtedness of the authority; or

(3) otherwise be used for purposes permitted by FAA policy and applicable procedures, as they now exist or may hereafter be adopted.

Section 55‑11‑670. The rates charged for services furnished by any revenue‑producing facility of the district as constructed, improved, enlarged, or extended is not subject to supervision or regulation of any state bureau, commission, board, or other instrumentality or agency of it.

Section 55‑11‑680. Property and income of the district is exempt from all taxes levied by the State, county, or any municipality, division, subdivision, or agency of them, directly or indirectly.

Section 55‑11‑690. For the period the district is indebted to a person on any bonds, notes, or other obligations issued pursuant to the provisions of this article, the powers granted to the district and the authority may not be diminished. The provisions of this article are considered a part of the contract between the district and the holders of the obligations.

Section 55‑11‑700. The provisions of this article do not prohibit the operation of any public or private airport located within the district by any other public agency or governmental authority, or by any private agency or person.

Section 55‑11‑710. Neither the City of Florence nor the Counties of Florence, Marion, or Dillon are liable in damages for any neglect or mismanagement in the operation and maintenance or otherwise of the airport.

Section 55‑11‑720. Nothing in this article may be construed to affect the rights and duties of electric utilities and electrical suppliers under the provisions of Chapter 27 ~~of~~, Title 58.

Section 55‑11‑730. Nothing in this article ~~shall prohibit~~ prohibits annexation by the City of Florence of the property of the district.”

SECTION 6. Chapter 13, Title 55 of the 1976 Code is amended to read:

CHAPTER 13

Protection of Airports and Airport Property

Section 55‑13‑5. The division shall create a map of each public use airport in the State showing airport property, runways, taxiways, runway approach and departure zones, Airport Safety Zones and Airport Land Use Zones which are extended zones from each runway in which land use considerations should be made to prevent incompatible uses with aircraft and airport operations. These maps should be updated as needed, but at least every five years.

The division shall provide a copy of these maps to the county council, city council, the respective planning agencies, and airport commission, and the agencies responsible for the granting of plat subdivision approval and building permits having jurisdiction over the airport, or having jurisdiction in the vicinity of the airport under aircraft flight profiles arriving and departing the airport.

Each governmental body or agency receiving these maps shall ensure notice of any planned development, plat approval, or building permit issued in an Airport Safety Zone or Airport Land Use Zone be provided to the division for review. In the event that an activity is enjoined or a condition is abated by the division contrary to a local government body’s decision, the governmental body proposing the land use decision shall have the right to seek cost recovery from the party responsible for creating the condition or the enjoinment or abatement of the activity. Neither the division or a local government shall be required to post a bond or other financial security as a condition to enjoining or abatement of a condition surrounding a public use airport. Land use decisions by county and municipal governments and local agencies shall take into account the presence of airport land use zones and airport safety zones and consult with the division, when possible, prior to making land use decisions within airport land use zones and airport safety zones. If the division provides comments, within thirty days, the governmental body must respond substantively in writing to each comment, separately stated before the issuance of the permit or approval. If the division believes the proposed project may have a substantial impact on aviation safety, create an imminent or foreseeable hazard to aviation safety, or result in a nuisance or an incompatible land use, the division may seek relief, including enjoining the activity or abatement of the condition giving rise to the division’s comments.

Land use decisions by county and municipal governments and local agencies shall take into account the presence of Airport Land Use Zones. Land use decisions in Airport Land Use Zones should avoid and minimize the impact to interruption of aircraft operations, aviation safety, including approach, landing, takeoff, and departure criteria established by the Federal Aviation Administration or nationally recognized industry standards.

Section 55‑13‑10. The governing body of ~~any county~~ a political subdivision in which there is ~~a United States Air Force base or airfield~~ an airport may make reasonable rules and promulgate regulations as authorized in Section 6‑24‑710(5) prohibiting, within a reasonable distance from the base or airfield, ~~(a)~~ the erection of ~~any~~ a building, tower or other structure or the allowing of natural growth or other hazard to aircraft, above certain maximum heights, which shall be increased at varying distances from the ~~base or airfield and (b)~~ airport. Counties or municipalities may restrict residential or commercial development inside the airport safety zones of a civil airport and prohibit the use of land in a manner which ~~will create electrical~~ could cause interference with radio communication between aircraft and the ~~base~~ airport or landing areas, confuse or impair visibility in the vicinity of the ~~base~~ airport or landing areas, or otherwise endanger the landing, taking‑off, or maneuvering of aircraft using the ~~base~~ airport or landing areas. Political subdivisions also may assist with the protection of Department of Defense defined accident potential areas from encroachments in accordance with federal and state regulations.

Section 55‑13‑20. The rules and regulations authorized by Section 55‑13‑10 ~~shall~~ become effective only after a public hearing, notice, and comment of which ~~shall~~ must be published ~~at least once a week for two weeks in a newspaper published and in general circulation in the county affected thereby~~ in accordance with State law.

Section 55‑13‑30. ~~After they become effective, it~~ It shall be unlawful for ~~any~~ a person to wilfully or intentionally violate ~~such~~ these rules and regulations and ~~any~~ a person violating ~~any of~~ them ~~shall~~, upon conviction, must be fined not exceeding one ~~hundred~~ thousand dollars, or imprisoned for not more than thirty days. A person who violates these rules and regulations may be liable for a civil penalty of one thousand dollars. Each day of the violation ~~shall constitute~~ constitutes a separate offense.

Section 55‑13‑40. (1) It ~~shall be~~ is unlawful, without proper authority, for any person to trespass, park, drive or drag race upon airport property.

(2) ~~Any~~ A person violating the provisions of this section ~~shall~~, upon, conviction must be fined not less than ~~two~~ five hundred dollars ~~nor~~ or more than ~~six hundred~~ two thousand dollars or imprisoned for not less than two months ~~nor~~ or more than six months or both in the discretion of the trial judge. In addition to ~~such~~ this penalty, the driver of ~~such~~ a vehicle ~~who~~ that violates the provisions of this section ~~shall~~, upon conviction, entry of a plea of guilty or forfeiture of bail shall have his driver’s license revoked for a period of one year. ~~Any~~ A person violating the provisions of this section by acquiescing in or permitting the driving of his car ~~shall~~, upon conviction, must be fined not ~~to exceed~~ more than one ~~hundred~~ thousand dollars or imprisoned for a period not ~~to exceed thirty~~ more than thirty days, or both, in the discretion of the court and, in addition ~~thereto~~, shall have his driver’s license and the registration of his vehicle suspended for a period of three months.”

SECTION 7. Chapter 15, Title 55 of the 1976 Code is amended to read:

“CHAPTER 15

Relocation Assistance

Section 55‑15‑10. As used in this chapter:

(a) The term ‘person’ means (1) any individual, partnership, corporation or association which is the owner of a business; (2) any owner, part owner, tenant or sharecropper who operates a farm; (3) an individual who is the head of a family; or (4) an individual not a member of a family.

(b) The term ‘family’ means two or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption or legal guardianship.

(c) The term ‘displaced person’ means any person who moves from real property as a result of the acquisition or reasonable expectation of acquisition of such real property, which may have been or is subsequently acquired, in whole or in part, for an airport, or as the result of the acquisition for an airport of other real property on which such person conducts a business or farm operation.

(d) The term ‘business’ means any lawful activity conducted primarily (1) for the purchase and resale, manufacture, processing or marketing of products, commodities or any other personal property; (2) for the sale of services to the public; or (3) by a nonprofit organization.

(e) The term ‘farm operation’ means any activity conducted solely or primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

(f) The term ‘public authority’ means the Division of Aeronautics of the ~~Department of Commerce~~ Budget and Control Board, a municipality, a county or other political subdivision of this State, separately or jointly, authorized to acquire land, air rights, safety markers, and lights as provided in Chapter 9 ~~of~~, Title 55.

Section 55‑15‑20. (a) Whenever the acquisition of real property for a program or project undertaken by a public authority will result in the displacement of any person, the public authority shall make a payment to any displaced person upon proper application as approved by the public authority for:

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the public authority ~~and;~~ ; and

(3) actual reasonable expenses in searching for a replacement business or farm.

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive a moving expense allowance, determined according to a schedule established by the public authority not to exceed three hundred dollars; and a dislocation allowance of two hundred dollars.

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business no payment shall be made under this subsection unless the public authority is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the public authority, which is engaged in the same or similar business. For the purposes of this subsection, the term ‘average annual net earnings’ means one half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the public authority determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

Section 55‑15‑30. (1) In addition to payments otherwise authorized by this chapter, the public authority shall make an additional payment not in excess of fifteen thousand dollars to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the public authority.

(b) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be determined by regulations issued pursuant to Section 55‑15‑70.

(c) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe and sanitary not later than the end of the one‑year period beginning on the date on which he receives final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

Section 55‑15‑40. In addition to amounts otherwise authorized by this chapter, the public authority shall make a payment to or for any displaced person from any dwelling not eligible to receive a payment under Section 55‑15‑30 which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either:

(1) the amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a decent, safe and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed four thousand dollars~~,~~; or

(2) the amount necessary to enable such person to make a down payment (including incidental expenses described in Section 55‑15‑30(1)(c) on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed four thousand dollars, except that if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment.

Section 55‑15‑50. (a) Whenever the acquisition of real property for a program or project undertaken by the public authority will result in the displacement of any person, the public authority shall provide a relocation assistance advisory program for displaced persons which shall offer the services prescribed herein. If the public authority determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer such person relocation advisory services under such program.

(b) Each relocation advisory assistance program required by subsection (a) shall include such measures, facilities or services as may be necessary or appropriate in order to:

(1) determine the need, if any, of displaced persons for relocation assistance;

(2) provide current and continuing information on the availability, prices and rentals, of comparable decent, safe and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(3) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(4) supply information concerning Federal, State and local housing programs, disaster loan programs, and other Federal, State or local programs offering assistance to displaced persons;

(5) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation;

(6) secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of the relocation program.

Section 55‑15‑60. Whenever the acquisition of real property for a program or project undertaken by the public authority will result in the displacement of any person, the public authority shall assure that, within a reasonable period of time, prior to displacement there will be available, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe and sanitary dwellings, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment; except that regulations issued pursuant to Section 55‑15‑70 may prescribe situations when these assurances may be waived.

Section 55‑15‑70. (a) The public authority shall adopt such rules and regulations as may be necessary to assure:

(1) that the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment may have his application reviewed by the public authority.

(b) the public authority may prescribe such other regulations and procedures, consistent with the provisions of this chapter, as it deems necessary or appropriate to carry out this chapter.

Section 55‑15‑80. In order to prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the public authority may authorize any State agency to enter into contracts with any individual, firm, association or corporation for services in connection with such programs, or may carry out its functions under this chapter through any Federal or State agency or instrumentality having an established organization for conducting relocation assistance programs.

Section 55‑15‑90. Funds appropriated or otherwise available to the public authority for the acquisition of real property or any interest therein for a particular program or project shall be available also for obligation and expenditure to carry out the provisions of this chapter as applied to that program or project.

Section 55‑15‑100. No payment received by a displaced person under this chapter shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any State law or for the purposes of the State’s personal income tax law, corporation tax law, or other tax laws. Such payments shall not be considered as income or resources of any recipient of public assistance and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Section 55‑15‑110. (1) The public authority, upon acquisition of real property under the eminent domain or condemnation laws of this State, shall as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the public authority deems fair and reasonable, for expenses he necessarily incurred for (a) recording fees, transfer taxes and similar expenses incidental to conveying such real property; (b) penalty costs for prepayment for any preexisting recorded mortgage entered into in good faith encumbering such real property; and (c) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title or the effective date of possession of such real property in the taking authority whichever is the earlier.

(2) Where a condemnation proceeding is instituted by the public authority under the laws of this State to acquire real property and (a) the final judgment is that the real property cannot be acquired by condemnation or (b) the proceeding is abandoned, the owner of any right, title or interest in such real property shall be paid by the public authority such sum as will, in the opinion of the public authority, reimburse such owner for his reasonable attorney, appraisal and engineering fees, actually incurred because of the condemnation proceeding.

(3) Where an inverse condemnation proceeding is instituted by the owner of any right, title or interest in real property, the court, rendering a judgment for the plaintiff in such proceeding and awarding compensation for the taking of property, or the public authority’s attorney effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or the public authority’s attorney, reimburse such plaintiff for his reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred because of such proceeding.

(4) The public authority, in acquiring real property which they have the power to acquire under the eminent domain or condemnation laws of this State shall comply with the following policies:

(a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(c) Before the initiation of negotiations for real property, an amount ~~shall~~ must be established which it is reasonably believed is just compensation ~~therefor~~ for it and ~~such~~ the amount ~~shall~~ must be offered for the property. In no event shall ~~such~~ the amount be less than the approved appraisal of the fair market value of such property. Any decrease or increase of the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(d) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

(e) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling, assuming a replacement dwelling will be available, or to move his business or farm operation without at least ninety days’ written notice from the date by which such move is required.

(f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short‑term occupier.

(g) In no event shall the time of condemnation be advanced, on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(h) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The public authority shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(i) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

(5)(a) Where any interest in real property is acquired, an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from such real property or which is determined to be adversely affected by the use to which such real property will be put shall be acquired.

(b) For the purpose of determining the just compensation to be paid for any building, structure or other improvement required to be acquired as above set forth, such building, structure or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure or improvement at the expiration of his term, and the fair market value which such building, structure or improvement contributes to the fair market value of the property to be acquired, or the fair market value of such building, structure or improvement for removal from the real property, whichever is the greater, ~~shall~~ must be paid to the tenant ~~therefor~~ for it.

(c) Payment for such buildings, structures or improvements as set forth above shall not result in duplication of any payments otherwise authorized by State law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer and release all his right, title and interest in and to such improvements. Nothing with regard to the above‑mentioned acquisition of buildings, structures or other improvements shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for such property interests in accordance with other laws of this State.

Section 55‑15‑120. Nothing in Sections 55‑15‑10 to 55‑15‑120 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to June 15, 1973.”

SECTION 8. Chapter 17, Title 55 of the 1976 Code is amended to read:

“CHAPTER 17

Regional Airport Districts

Section 55‑17‑10. ~~Any~~ An airport district in this State containing an airport, served by air carriers ~~certificated by the United States Civil Aeronautics Board, enplaning on June 15, 1977, three hundred thousand or more passengers per year, as reported to and published by the United States Civil Aeronautics Board, is hereby~~ or cargo carriers certificated and reported by the United States Department of Transportation, Federal Aviation Administration may be designated as a regional airport district.

Section 55‑17‑20. The governing authority of any regional airport district in this State, which has averaged on June 15, 1977, three hundred thousand or more enplaning passengers per year for the preceding three consecutive calendar years, as reported to and published by the United States ~~Civil Aeronautics Board~~ Federal Aviation Administration, may issue, without an election, general obligation bonds of the district in an amount as is within the constitutional debt limit applicable to the district for the purpose of paying the cost of maintenance, construction, renovation, extension, enlargement, improvement and acquisition of airports and suitable air navigation facilities; provided, however, that as a condition precedent to the issuance of bonds a majority of the members of each delegation, including members of the House of Representatives and the Senate whose districts are located either wholly or partially within an airport district, must give their prior written approval. All or any general obligation bonds issued pursuant to this chapter shall conform to the following specifications and be subject to the following procedures:

(a) They shall be issued as a single issue or from time to time as several separate issues. They shall be in such denominations, bear such date as the governing authority shall determine and bonds of any issue shall mature in such equal or unequal installments as may be determined by the governing authority. They shall be made payable at such places as the governing authority shall prescribed, shall bear interest at such rates within the limitations of Section 11‑9‑350 and shall be payable in such manner as the governing authority may determine. The bonds may be issued with the privilege of having them registered as to principal on the books of the governing authority and the principal thus made payable to the registered holder (unless the last registered transfer shall have been to bearer), upon such conditions as the governing authority may prescribe. Any bond issued pursuant to this chapter may be made subject to redemption prior to its stated maturity, on such terms and conditions and with such redemption premium as the governing authority shall prescribe.

(b) They shall be sold at not less than par and accrued interest to the date of their respective deliveries at public sale. At least ten days prior to any sale, notice announcing the intention to receive bids for sale of such bonds shall be published in a newspaper of general circulation in the State of South Carolina. In offering the bonds for sale the governing authority shall reserve the right to reject any and all bids and if all bids shall be rejected, the governing authority may negotiate privately for the disposition of such bonds.

(c) Such bonds and all interest to become due thereon shall have the tax‑exempt status prescribed by Section 12‑1‑60, Code of Laws of South Carolina, 1976.

(d) All general obligation bonds issued pursuant to this chapter shall be executed in a manner prescribed by the governing authority. The seal of the district shall be affixed to, impressed or reproduced upon each of such bonds and each of such bonds shall be attested by the secretary of the governing authority. The coupons attached to such bonds shall be authenticated by a facsimile of the signature of the chairman and the secretary of the governing authority who shall be in office on the date of the adoption of the resolution of the governing authority authorizing the bonds.

(e) The delivery of any bonds so executed and authenticated shall be valid notwithstanding any changes in officers or seal occurring after such execution and authentication.

(f) There shall be irrevocably pledged for the payment of such bonds and interest as they mature the full faith, credit and resources of the district. Until the principal and interest of all bonds issued under this chapter shall be fully paid, there shall be levied on all taxable property in the district an annual ad valorem tax sufficient to pay the principal and interest of all bonds issued under this chapter as such principal and interest become due. The tax shall be annually levied by the Comptroller General of South Carolina and collected by the county treasurer of the county or counties in which the district is located at the same time and in the same manner as county taxes are collected. Each of the county treasurers, if the district comprises more than a single county, shall collect the tax in his county and pay it to the State Treasurer in the manner and within the time heretofore provided by law for the payment of State taxes to the State Treasurer, who shall set them apart in a special fund and apply them solely to the payment of principal and interest of the bonds so long as any such principal or interest remains outstanding. The tax to be levied under the provisions of this item shall not be substantially greater than the amount necessary to pay principal and interest of bonds maturing during the year in which monies produced by such levy will come into the hands of the State Treasurer, as reduced by the anticipated balance of funds actually in the hands of the State Treasurer, on the occasion when it becomes necessary to fix such tax levy, produced by: (1) additional collections from such levies made in prior years; (2) net revenues derived by the governing authority from the operation of its facilities not required to meet costs of operating, maintaining, enlarging, improving and acquiring its facilities. When all principal and interest of outstanding bonds have been paid, the State Treasurer shall transfer any balance remaining in the special fund created under the terms of this item to the general fund of the governing authority subject to its draft or order for any legitimate purpose incident to the operation, maintenance or extension of the district’s airport facilities.

(g) The proceeds derived from the sale of such bonds shall be deposited with the State Treasurer in a separate and special fund and shall be subject to transfer, upon warrants or orders of the governing authority to any bank or trust company having an office within the district, to be expended by the governing authority for the purpose of meeting any costs incurred in the issuance of the bonds and to meet the cost of maintenance, construction, renovation, extension, enlargement, improvement and acquisition of airport facilities within the district and to no other purposes; provided, however, that any premium received shall be deposited with the State Treasurer and applied by him to the first installment of principal becoming due on the bonds and any accrued interest shall be applied to the first installment of interest becoming due on the bonds. Provided, further, pending such withdrawals, the State Treasurer shall, upon the request of the governing authority, be empowered to invest and reinvest the proceeds derived from the sale of the bonds in direct general obligations of the United States of America or any agency thereof having a maturity of not more than one year from the date as of which such investment shall be made. Income derived from such investments shall be subject to the transfer upon warrants or orders of the governing authority to any bank or trust company having an office within the district to be expended by the governing authority for the purposes of meeting the costs of issuing the bonds and any costs incurred in the maintenance, construction, renovation, extension, enlargement, improvement and acquisition of any airport facility. Neither the purchaser of the bonds nor any subsequent holders thereof shall be responsible for the proper application of the proceeds of sales.

(h) The powers and authorizations hereby conferred upon the governing authority shall be in addition to all other powers and authorizations previously vested in it, and may be availed of at a special or regular meeting of the governing authority by resolution to become effective immediately upon its adoption at the meeting at which it is presented. No action other than that prescribed herein need be taken to ~~effect~~ affect the issuance of the bonds nor shall the governing authority be required to obtain the approval of any other public body or agency to any action taken pursuant to the authorization of this chapter. No election is prescribed as a condition precedent to the issuance of any bonds under the provisions of this chapter.

Section 55‑17‑30. If the provisions contained in the ~~proviso set out in the~~ first paragraph of Section 55‑17‑20 relating to legislative approval are held to be unconstitutional by a court of competent jurisdiction all the provisions of this chapter shall be null and void.”

SECTION 9. Section 13‑1‑20 of the 1976 Code is amended to read:

“Section 13‑1‑20. The Department of Commerce shall conduct an adequate statewide program for the stimulation of economic activity to develop the potentialities of the State; manage the business and affairs of the Savannah Valley Development; ~~develop state public airports and an air transportation system that is consistent with the needs and desires of the public;~~ develop the state public railway system for the efficient and economical movement of freight, goods, and other merchandise; and enhance the economic growth and development of the State through strategic planning and coordinating activities.”

SECTION 10. Section 13‑1‑30(C) of the 1976 Code, as last amended by Act 11 of 2005, is further amended to read:

“(C) Notwithstanding any other provision of law, the Secretary of Commerce may appoint a director for each division of the department, ~~except for the Division of Aeronautics who must be appointed by the Governor in accordance with Section 13‑1‑1080. Except for the Executive Director of the Division of Aeronautics who shall serve at the pleasure of the Aeronautics Commission, each~~. Each director shall serve at the pleasure of the Secretary of Commerce and shall be responsible to the secretary for the operation of the programs outlined by the secretary.”

SECTION 11. Section 13‑1‑1050(B)(2) of the 1976 Code, as added by Act 11 of 2005, is amended to read:

“(2) commission members appointed to represent congressional district three ~~and~~, four, and seven, three years;

SECTION 12. Section 13-1-1000(1) of the 1976 Code is amended to read:

“Section 13-1-1000. Notwithstanding any other provision of law, the following terms, when used in this article, have the following meanings unless the context clearly requires otherwise:

(1) ~~‘Department’~~ ‘Board’ means the ~~Department of Commerce~~ Budget and Control Board.”

SECTION 13. Section 13-1-1010 of the 1976 Code is amended to read:

“Section 13-1-1010. Notwithstanding any other provision of law, the Aeronautics Commission is hereby created within the ~~Department of Commerce~~ Budget and Control Board, to assist the ~~Secretary of Commerce~~ board, or the board’s successor entity, in the operation of and to oversee the Division of Aeronautics. ~~and there~~ There may be no purchase or sale of any aeronautics assets without the approval of the commission and the ~~Secretary of Commerce~~ board, or the board’s successor entity.”

SECTION 14. Chapter 8, Title 55 of the 1976 Code is repealed.

SECTION 15. A. The Aeronautics Commission, and the commission’s functions, powers, duties, and responsibilities transferred to the Budget and Control Board, or its successor entity, by this act must be maintained as a distinct component, function, power, duty, or responsibility of the Budget and Control Board, or its successor entity. Any funds appropriated to the commission must not be transferred to another component of the Budget and Control Board, or its successor entity. Any funds appropriated for a distinct function, power, duty, or responsibility of the commission must be exercised by the commission.

B. Regulations promulgated by this commission as it formerly existed under the Department of Commerce are continued and are considered to be promulgated by this commission under the Budget and Control Board, or its successor entity.

C. The Aeronautics Commission shall use its existing resources that are transferred to the Budget and Control Board, or its successor entity, including, but not limited to, funding, personnel, equipment, and supplies.

D. Any reference to the Budget and Control Board shall mean the Budget and Control Board or its successor entity.

SECTION 16. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 17. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 18. This act takes effect upon approval by the Governor.

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