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CS/HB 1345

2011 Legislature

1 A bill to be entitled
2 An act relating to the Charlotte County Airport Authority,
3 Charlotte County; amending chapter 98-508, Laws of
4 Florida, as amended; revising various provisions of the
5 Charlotte County Airport Authority Act; revising
6 definitions; expanding the purpose of the authority;
7 revising provisions relating to members, officers,
8 compensation, and meetings; revising powers of the
9 authority; revising requirements for the expenditure of
10 funds; providing an effective date.

11

12 Be It Enacted by the Legislature of the State of Florida:

13

14 Section 1. Sections 2 through 19 of section 2 of chapter
15 98-508, Law of Florida, as amended by chapter 2004-405, Laws of
16 Florida, are amended to read:

17 Section 2. Definitions.—As used in this act, the following
18 words and terms shall have the following meanings, unless the
19 context shall indicate another or different meaning or intent:

20 (1) "Authority" means the authority created by this act
21 or, if such authority shall be abolished, the board, body, or
22 commission succeeding to the principal functions thereof or to
23 whom the powers given by this act to the authority shall be
24 given by law.

25 (2) "Area" means the territorial limits within which the
26 Charlotte County Airport Authority shall operate, the boundaries
27 of which shall be coextensive with Charlotte County.

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28 (3) "Project" means and includes the acquisition of lands
29 or any interest therein or improvements thereon, personal
30 property of any nature or description, intangible personal
31 property, or buildings, structures, or other improvements or
32 facilities or any portion thereof or any interest therein, for
33 the development, expansion, and promotion of the airports,
34 ~~Charlotte County Airport, and~~ commerce parks, facilities, or
35 real estate owned, operated, or managed by the Charlotte County
36 Airport Authority Park and the construction or acquisition of
37 buildings, plants, industrial parks, or areas and any and all
38 facilities relating to the development of industry, commerce,
39 recreation, agriculture, or the natural resources of the
40 Charlotte County Airport Authority for the purpose of selling,
41 leasing, or renting such buildings, parks, areas, or facilities
42 owned by the Charlotte County Airport Authority to public or
43 private corporations, persons, or firms.

44 (4) "Cost of project" embraces the cost of construction,
45 the cost of all lands, properties, easements, rights, and
46 franchises acquired, the cost of machinery and equipment,
47 financing charges, interest prior to and during construction,
48 cost of engineering, architectural, and legal expense, and plans
49 and specifications and other expenses necessary or incident to
50 determining the feasibility or practicability of the project,
51 administrative expenses, and such other expenses as may be
52 necessary or incident to the financing herein authorized for the
53 construction of any project and placing the same in operation.

54 (5) "Airport facilities" means airport facilities of all
55 kinds, including, but not limited to, landing fields; runways;

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56 | taxiways; hangars; shops; restaurants and catering facilities;
57 | terminals; buildings; parking facilities and all other
58 | facilities necessary or desirable for the landing, taking off,
59 | operating, servicing, repairing, and parking of aircraft; fuel
60 | farms; self-service fueling areas; facilities necessary for the
61 | unloading and handling of passengers, mail, express, and
62 | freight; and facilities for the accommodation, convenience, and
63 | comfort of passengers and pilots, together with related
64 | transportation facilities; and all necessary appurtenances,
65 | machinery, and equipment, and all lands, properties, rights,
66 | easements, and franchises relating thereto and considered
67 | necessary or convenient by the authority in connection
68 | therewith.

69 | Section 3. Authority, creation and purpose.—For the
70 | purpose of performing such acts as shall be necessary for the
71 | management, operation, maintenance, planning, and development of
72 | the airports, commerce parks, facilities, or real estate owned,
73 | operated, or managed by the Charlotte County Airport Authority,
74 | there is hereby created and established, as an agency of
75 | Charlotte County, a public body corporate to be known as the
76 | "Charlotte County Airport Authority," hereinafter referred to as
77 | "authority" and the exercise by the authority of any of the
78 | powers conferred upon it by this act shall be deemed and held to
79 | be an essential and proper function of the county. The Charlotte
80 | County Airport Authority is an independent special district
81 | pursuant to chapter 189, Florida Statutes.

82 | Section 4. Membership, appointment term of office.—The
83 | authority shall be composed of five members, one from each

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84 Charlotte County commission district elected as prescribed in
85 this section. At each general election, the members of the
86 authority shall be elected for a term of 4 years, and shall take
87 office immediately upon election. Election of members of the
88 authority shall be as prescribed by the general election laws of
89 Florida.

90 Section 5. Vacancies.—Each member of the authority shall
91 hold office until his or her successor has been appointed and
92 has qualified. A vacancy occurring during a term of an appointed
93 or elected member shall be filled only for the balance of the
94 unexpired term, such appointments to be made by the Governor.

95 Section 6. Chairperson, vice chairperson, ~~Chair, vice-~~
96 ~~chair,~~ secretary-treasurer, and assistant secretary-treasurer.—
97 The authority shall elect from its membership a chairperson and
98 vice chairperson ~~chair and vice chair~~ to serve in the absence or
99 disqualification of the chairperson ~~chair~~, both to hold office
100 at the will of the authority. The authority shall further elect
101 from its membership a secretary-treasurer for the authority and
102 assistant secretary-treasurer to serve in the absence or
103 disqualification of the secretary-treasurer.

104 Section 7. Qualification of members.—Upon the effective
105 date of the appointment or election of each member of the
106 authority, or as soon thereafter as practicable, each member
107 shall enter upon his or her duties, but before doing so, such
108 member shall take an oath to faithfully perform the duties of
109 office ~~and file the same with the Clerk of the Circuit Court,~~
110 and shall execute a public official bond in the penal sum of
111 \$100,000 payable to the authority and conditioned upon the

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112 faithful performance of the duties of his or her office, ~~which~~
113 ~~bond shall be approved by the Clerk of the Circuit Court.~~ The
114 cost of the premium on all such bonds shall be paid by the
115 authority and shall be included in its cost of operation.

116 Section 8. Compensation; travel expenses.—The maximum
117 amount of remuneration ~~compensation~~ which may be paid to a
118 member of the authority annually is \$7,500. The members of the
119 authority by majority vote shall set their annual salary, which
120 may be no more than the maximum set forth above. In addition,
121 the authority shall set by resolution per diem for expenses
122 incurred by authority members and staff to be reimbursed
123 pursuant to section 166.021(10), Florida Statutes, or in
124 accordance with section 112.061(14), Florida Statutes.

125 Section 9. Quorum; transaction of business.—A majority of
126 the membership shall constitute a quorum for all purposes, and
127 no vacancy in the authority shall impair the right of a quorum
128 of the authority to exercise all of the rights and perform all
129 of the duties of the authority. The authority may meet at such
130 times and places designated by it but shall hold regular
131 meetings as necessary and generally ~~at least~~ once each month
132 unless canceled by emergency, ~~or~~ majority vote, or by consensus
133 of the authority members. Emergency meetings may be called upon
134 the call of the chair or any three members of the authority.

135 Section 10. Powers.—The authority shall have these
136 specific powers, in addition to other powers otherwise
137 conferred:

138 (1) To sue and be sued, implead and be impleaded,
139 complain, and defend in all courts.

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

141 (3) To select and appoint agents and employees, including
142 engineers, architects, builders, and attorneys, and to fix their
143 compensation.

144 (4) To borrow money, incur debt, and issue bonds, notes
145 (including bond anticipation notes), certificates, or any other
146 instruments of indebtedness for any lawful purpose that
147 promotes, enhances, or otherwise furthers the purposes of the
148 authority, including, but not limited to, financing the cost of
149 any project, capitalizing interest, funding any reserves,
150 refunding or refinancing any existing indebtedness, and paying
151 costs and expenses associated with such indebtedness. Any such
152 indebtedness may be secured by any revenue source or in any
153 manner as is allowable under applicable law. No general
154 obligation bonds may be issued by the authority unless the
155 Florida Constitution and all other applicable laws regarding the
156 issuance of general obligation bonds are satisfied, including,
157 but not limited to, approval by a majority of the electorate of
158 Charlotte County, which cast votes in a duly held bond
159 referendum. For purposes of this section, the term "bonds" shall
160 include all forms or instruments of indebtedness. The bonds may
161 be issued as serial bonds or as term bonds or both. The
162 authority may issue capital appreciation bonds or variable rate
163 bonds. Any bonds must be authorized by resolution of the
164 governing body of the authority and bear the date or dates;
165 mature at the time or times, not exceeding 40 years after their
166 respective dates; bear interest at the rate or rates; be payable
167 at the time or times; be in the denomination; be in the form;

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168 carry the registration privileges; be executed in the manner; be
169 payable from the sources and in the medium or payment and at the
170 place; and be subject to the terms for redemption, including
171 redemption prior to maturity, as the resolution may provide. If
172 any officer whose signature, or a facsimile of whose signature,
173 appears on any bonds ceases to be an officer before the delivery
174 of the bonds, the signature or facsimile is valid and sufficient
175 for all purposes as if he or she had remained in office until
176 the delivery. The bonds may be sold at public or private sale,
177 competitively or negotiated, for such price as the governing
178 body of the authority shall determine. Pending preparation of
179 the definitive bonds, the authority may issue interim
180 certificates, which shall be exchanged for the definitive bonds.
181 The bonds may be secured by resolution, indenture of trust, or
182 trust agreement. In addition, the governing body of the
183 authority may delegate to an officer, official, or agent of the
184 authority, as the governing body of the authority may select,
185 the power to determine the time; manner of sale, public or
186 private, competitive or negotiated; maturities; rate of
187 interest, which may be fixed or may vary at the time and in
188 accordance with a specified formula or method of determination;
189 and other terms and conditions as may be deemed appropriate by
190 the officer, official, or agent so designated by the governing
191 body of the authority. However, the amount and maturity of the
192 bonds and the interest rate of the bonds must be within the
193 limits prescribed by the governing body of the authority and its
194 resolution delegating to an officer, official, or agent the
195 power to authorize the issuance and sale of the bonds. Bonds,

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196 notes, or other obligations issued hereunder may be validated as
197 provided in chapter 75, Florida Statutes. The complaint in any
198 action to validate the bonds, notes, or other obligations must
199 be filed only in the Circuit Court for Charlotte County. Section
200 75.04(2), Florida Statutes, does not apply to a complaint for
201 validation brought by the authority. The bonds of the authority,
202 their transfer, and the income therefrom, including any profits
203 made on the sale thereof, are at all times free from taxation of
204 any kind by the state or by any political subdivision or other
205 agency or instrumentality thereof. The exemption granted in this
206 subsection is not applicable to any tax imposed by chapter 220,
207 Florida Statutes, on interest, income, or profits on debt
208 obligations owned.

209 (5) To construct, acquire, establish, improve, extend,
210 enlarge, reconstruct, reequip, maintain, repair, and operate any
211 project as herein defined.

212 (6) To acquire for any project authorized by this act by
213 grant, purchase, gift, devise, condemnation by eminent domain
214 proceedings, exchange or in any other manner, all property, real
215 or personal, or any estate or interest therein, upon such terms
216 and conditions as the authority shall by resolution fix and
217 determine. The right of eminent domain herein conferred shall be
218 exercised by the authority in the manner provided by law.

219 (7) To enter into joint arrangements with other
220 transportation lines, or any common carrier, if the authority
221 shall deem it advantageous to do so.

222 (8) To make and enter into all contracts and agreements
223 and to do and perform all acts and deeds necessary and

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224 incidental to the performance of its duties and the exercise of
 225 its powers; to make and execute leases or agreements for the use
 226 and occupation of the property and projects under its control on
 227 such terms, conditions, and period of time as the authority may
 228 determine, and to sell and dispose of such property and projects
 229 as shall no longer be needed for the uses and purposes of the
 230 authority on such terms and conditions as shall be prescribed by
 231 resolution of the authority.

232 (9) To the extent permitted by law, to fix, regulate, and
 233 collect rates and charges for the services and facilities
 234 furnished by any project under its control, to establish, limit,
 235 and control the use of any project as may be deemed necessary to
 236 ensure the proper operation of the project; to impose sanctions
 237 to promote and enforce compliance with any rule or regulation
 238 which the authority may adopt in the regulation of the projects
 239 under its control.

240 (10) To fix the rates of warehousing, storage, and
 241 terminal charges for the use of the airport facilities of any
 242 airports, commerce parks, facilities, or real estate under
 243 authority control ~~the Charlotte County Airport.~~

244 (11) To fix the rates and collect those rents on the land
 245 and buildings owned by the authority in accordance with Federal
 246 Aviation Administration regulations ~~of the Federal Aviation~~
 247 ~~Administration.~~

248 (12) To solicit all business and do all things necessary
 249 or advisable to promote commerce and increase activity of any
 250 airports, commerce parks, facilities, or real estate under
 251 authority control ~~at the Charlotte County Airport.~~

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252 (13) To receive and accept from any federal or state
253 agency, grants for, or in aid of, the construction, improvement,
254 or operation of any project and to receive and accept
255 contributions from any source of either money, property, labor,
256 or other things of value.

257 (14) To make any and all applications required by the
258 treasury department and other departments or agencies of the
259 United States government as a condition precedent to the
260 establishment within the county of a free port, foreign trade
261 zone, or area for the reception from foreign countries of
262 articles of commerce and to expedite and encourage foreign
263 commerce, and the handling, processing, and delivery thereof
264 into foreign commerce free from the payment of custom duties and
265 to enter into any agreements required by such departments or
266 agencies in connection therewith and to make like applications
267 and agreements with respect to the establishment within said
268 county of one or more bonded warehouses.

269 (15) To enter into any contract with the State of Florida,
270 the government of the United States, or any agency of said
271 governments which may be necessary in order to produce
272 assistance, appropriations, and aid for the construction,
273 enlargement, or improvement of any airports, commerce parks,
274 facilities, or real estate under authority control ~~the Charlotte~~
275 ~~County Airport.~~

276 (16) To make or cause to be made such surveys,
277 investigations, studies, borings, maps, plans, drawings, and
278 estimates of cost and revenues as it may deem necessary and may
279 prepare and adopt a comprehensive plan or plans, for the

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280 location, construction, improvement, and development of any
281 project.

282 (17) To grant nonexclusive franchise to persons, firms, or
283 corporations for the operation of aeronautical and
284 nonaeronautical leases and other concessions in, on, and in
285 connection with, any project owned and operated by the
286 authority. In granting such franchise, it shall be the duty of
287 the authority to investigate and consider the qualifications and
288 ability of the lessee or concessionaires to provide or perform
289 the contemplated services for the public using the facilities
290 and the revenues which will be derived therefrom by the
291 authority and to exercise sound prudent business judgment on
292 behalf of the authority with respect thereto, calling for bids
293 when practicable and when the interests of the public will best
294 be served by such action.

295 (18) To enter into contracts with utility companies or
296 others for the supplying by said utility companies or others of
297 water, sewer, electricity, and/or telephone service to or in
298 connection with any project or to own, lease, construct, and
299 maintain any or all utilities, including the supplying of gas,
300 water, electricity, sewer, telephone, or other services
301 reasonably related to such utilities.

302 (19) To pledge by resolution or contract the revenues
303 arising from the operation of any project or projects owned and
304 operated by the authority to the payment of the cost of
305 operation, maintenance, repair, improvement, extension, and/or
306 enlargement of the project or projects from the operation of
307 which such revenues are received and for the payment of

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308 principal and interest on bonds issued in connection with any
309 such project or projects constructed or acquired by the
310 authority under the provisions of this act. In any such case the
311 authority may adopt separate budgets for the operation of such
312 project or projects. In every such case such revenues shall be
313 expended exclusively for the payment of the costs of operation,
314 maintenance, repair, improvement, extension, and enlargement of
315 the project or projects from the operation of which such
316 revenues arise, for the performance of the authority's contracts
317 in connection with such project or projects, and for the payment
318 of principal and interest requirements of any bond issued in
319 connection with the project or projects. Any surplus of such
320 funds remaining on hand at the end of any year shall be carried
321 forward and may be expended in the succeeding year for the
322 payment of the costs of operation of such project or projects or
323 for the repair, , and/or extension thereof as the authority may
324 determine, unless such surplus has been pledged for the payment
325 of principal and interest on bonds, as authorized hereunder, in
326 which event any such surplus shall be applied in accordance with
327 the resolution pledging same.

328 (20) To provide for the manual execution of any instrument
329 on behalf of the authority by the signature of the chairperson
330 or vice chairperson of the authority and attested by the
331 secretary-treasurer or, in his or her absence, by the assistant
332 secretary-treasurer or, if delegated by the members to do so,
333 the executive director or any other authority personnel to whom
334 authority has been delegated, or by their facsimile signature in

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335 accordance with the Uniform Facsimile Signature of Public
336 Officials Act.

337 (21)~~(20)~~ To do all other acts and things necessary or
338 proper in the exercise of the powers herein granted.

339 Section 11. Power to levy taxes.—

340 (1)~~(a)~~ It shall be the duty of the Board of County
341 Commissioners of Charlotte County to levy an annual tax on all
342 taxable real and personal property in such county in an amount
343 to be fixed by said authority and certified to said board,
344 sufficient to meet the sinking fund requirement for the payment
345 of the interest and principal on any general obligation bonds
346 issued by the authority as the same shall become due, which
347 amount, however, shall not exceed .75 mill. This levy shall be
348 in addition to the annual levy hereinafter specified for
349 development and authority purposes.

350 (2)~~(b)~~ For the payment of the principal of the interest on
351 any general obligation bonds of the authority issued under the
352 provisions of this act, the Board of County Commissioners of
353 Charlotte County shall levy annually in the manner hereinafter
354 provided a tax upon all taxable real and personal property
355 within the county, subject to the limitations prescribed above,
356 sufficient to pay such principal and interest as the same
357 respectively become due and payable and the proceeds of all such
358 taxes shall when collected and received by the authority be paid
359 into a special fund and used for no other purpose than the
360 payment of such principal and interest; however, there may be
361 pledged to the payment of such principal and interest the
362 surplus of the revenues of the project or projects, after

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363 payment of the costs of operation, maintenance, and repair
364 thereof.

365 (3)~~(e)~~ The levy, collection, and expenditure of such taxes
366 are hereby declared to be for a lawful county purpose.

367 (4)~~(d)~~ The tax collector of Charlotte County shall, as and
368 when collected, remit all moneys collected under the taxes
369 hereby authorized to the authority which shall deposit the same
370 in a bank or banks qualified as depositories of public funds to
371 be designated by such authority. Certified copies of tax
372 resolutions executed in the name of the authority by its
373 chairperson ~~chair~~, and attested by its secretary, under its
374 corporate seal, shall immediately be delivered to the Board of
375 County Commissioners of Charlotte County.

376 (5)~~(e)~~ The property appraiser, tax collector, and Board of
377 County Commissioners of Charlotte County, shall, when requested
378 by the authority, prepare from their official records and
379 deliver to the authority any and all information that may be
380 requested at any time regarding the tax valuations, levies,
381 assessments, or collections in such county.

382 Section 12. Bonds eligible for legal investment.—
383 Notwithstanding any provisions of any other law or laws to the
384 contrary, all revenue bonds, general obligation bonds, or any
385 combination of general obligation or revenue bonds, including
386 refunding bonds, issued pursuant to this act shall constitute
387 legal investments for savings banks, banks, unit companies,
388 executors, administrators, trustees, guardians, and other
389 fiduciaries, and for any board, body, agency, or instrumentality
390 of the state or of any county, municipality, or other political

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391 subdivision of the state; and shall be eligible as security for
 392 deposits of state, county, municipal, and other public funds.

393 Section 13. Declaration of purpose.—The authority created
 394 by this act and the purposes which it is intended to serve are
 395 hereby found to be for a county and public purpose.

396 Section 14. Transfer of city and county projects.—The
 397 County of Charlotte or any municipality or any other person,
 398 firm, or corporation, is empowered and authorized to sell,
 399 lease, lend, grant, or convey to the authority, any real, or
 400 personal property, or any interest therein, with or without
 401 consideration, which might be used by the authority in the
 402 discharge of any of the powers or privileges granted by law. The
 403 County of Charlotte or any municipality therein or any other
 404 person, firm, or corporation, is further authorized to transfer,
 405 assign, and set over to the authority any contract or contracts,
 406 leases, mortgages, or other agreements heretofore made or
 407 executed by such county, city, or other person, with or without
 408 consideration. The County of Charlotte and all incorporated
 409 cities therein are expressly authorized to contract with the
 410 authority for any purpose authorized by the provision of this
 411 act.

412 Section 15. Taxation of Airport Authority Property.—The
 413 authority shall not be required to pay any taxes or assessments
 414 of any kind or nature whatsoever upon property belonging to the
 415 said authority.

416 Section 16. Annual audit.—The books and records of the
 417 authority shall be audited at least annually, at the expense of
 418 the authority, by a certified public accountant. The authority

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419 shall furnish a copy of the audit report to the Board of County
420 Commissioners annually, and such audit shall be in lieu of any
421 further audit required by any general or special law.

422 Section 17. Expenditure of funds.—Moneys of the authority
423 shall be deemed to be trust funds to be held and applied solely
424 for the purposes authorized by law. The authority is authorized
425 to receive moneys in its name, and all moneys drawn from the
426 depository shall be upon checks, ~~or~~ or wire transfers, electronic
427 transfers, ACH transfers, or other legal and customary means
428 issued by the authority, and the checks so drawn shall be signed
429 by the chairperson or vice chairperson ~~chair or vice-chair~~ of
430 the authority and attested by the secretary-treasurer or, in his
431 or her absence, by the assistant secretary-treasurer or, if
432 delegated by the members to do so, the executive director or any
433 other authority personnel to whom authority has been delegated,
434 or by their facsimile signature in accordance with the Uniform
435 Facsimile Signature of Public Officials Act, and the seal of the
436 authority shall be affixed or printed thereon.

437 Section 18. Acquisition or disposal of property.—Contracts
438 may be let by the authority for the construction of any building
439 or other facility, or the acquisition of any real or personal
440 property, or the purchase of any goods, supplies, materials, or
441 services for authority purposes on such terms and subject to
442 such conditions as the authority shall determine to be in the
443 best interests of the authority. The authority is expressly
444 authorized to sell and convey any property, real or personal,
445 belonging to the authority, whenever the authority shall
446 determine that it is in the best interests of the authority to

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447 do so in accordance with FAA requirements and guidelines. The
448 authority shall, by resolution, fix and determine rules and
449 regulations relating to advertisement for bids, manner of
450 bidding, and a maximum amount below which same would not be
451 required. The authority may cooperate with the state, county, or
452 any other governmental agency for the purchase of such goods,
453 supplies, or materials on such terms and subject to such
454 conditions as the authority shall determine to be in the best
455 interests of the authority.

456 Section 19. Termination of authority.—If for any reason,
457 the authority shall terminate, be terminated, or cease operation
458 or existence for any cause or reason, then, upon such
459 termination or cessation, title to all property, real, personal
460 or mixed, tangible or intangible of whatever kind, and
461 wheresoever located, shall immediately vest in the county, which
462 by and through the board, is hereby authorized to exercise any
463 and all powers herein granted to the authority for the purposes
464 herein expressed.

465 Section 2. This act shall take effect upon becoming a law.