

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS15351-MDfz-128 (04/30)

Short Title: Create Aviation Management Division.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE THE AVIATION MANAGEMENT DIVISION; TO REQUIRE THE SALE OF CERTAIN STATE AIRCRAFT; TO CONSOLIDATE STATE AIRCRAFT FLEETS; AND TO MAKE CONFORMING STATUTORY CHANGES, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE OF THE NORTH CAROLINA GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

PART I. CREATION OF AVIATION MANAGEMENT DIVISION; DIVISION TO PROVIDE AVIATION PASSENGER TRANSPORT AND PHOTOGRAMMETRY SERVICES TO STATE AGENCIES

SECTION 1.(a) The Division of Aviation of the Department of Transportation is renamed the Aviation Management Division of the Department of Transportation. Wherever the name "Division of Aviation" appears in G.S. 63-91 and G.S. 63-92, the Revisor of Statutes shall replace "Division of Aviation" with "Aviation Management Division."

SECTION 1.(b) Article 8 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 10. Aviation Management Division.

"§ 143B-364.1. Aviation Management Division – creation.

(a) Creation. – There is established within the Department of Transportation the Aviation Management Division, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) State Agencies to Use Division to Arrange Aviation Passenger Transport and Photogrammetry Services. – All State agencies in need of aviation passenger transport services or photogrammetry services shall arrange for those services through the Aviation Management Division in accordance with this Part. As used in this Part, the term 'aviation passenger transport services' means the use of State-owned aircraft to transport persons and does not include travel on commercial flights. As used in this Part, the term 'State agency' does not include units of local government.

"§ 143B-364.2. Powers and duties.

The Aviation Management Division shall have the following powers and duties:

(1) Aviation Passenger Transport and Photogrammetry. – To operate consolidated aviation passenger transport and photogrammetry services for



1 all State programs and officials. This includes the following powers and
2 duties:

- 3 a. Acquiring, operating, maintaining, and housing aircraft. Acquisition
4 of aircraft may be made through the Department of Administration or
5 independently.
- 6 b. Adopting guidelines to govern the use of State aircraft for aviation
7 passenger transportation services, including guidelines governing the
8 appropriate use of aircraft, passenger prioritization, scheduling
9 responsibilities and procedures, and rate structures.
- 10 c. Providing centralized scheduling and aviation passenger
11 transportation services to State entities.
- 12 d. Ensuring safety guidelines and requirements are met for staff and
13 aircraft operations.
- 14 e. Determining the appropriate number of aircraft and personnel
15 required to meet the State's needs. Fleet mix studies shall be
16 conducted periodically to determine the appropriate number and type
17 of aircraft needed for aviation passenger transport and
18 photogrammetry activities.
- 19 f. Disposing of State aviation assets no longer needed. This may be
20 accomplished through cooperation with the Department of
21 Administration or independently. The net proceeds of any disposition
22 under this sub-subdivision shall be remitted to the State Treasurer for
23 deposit in the General Fund.
- 24 g. Conducting analyses to ensure efficient operation of transportation
25 aircraft.
- 26 h. Developing a long-term fleet management plan.
- 27 (2) Exercising the powers and duties exercised by the Division of Aviation of
28 the Department of Transportation prior to the enactment of this section.

29 **"§ 143B-364.3. Electronic aviation resources management system.**

30 The Aviation Management Division shall acquire and implement a single electronic data
31 management system to manage all State aviation resources related to aviation passenger
32 transport and photogrammetry services. The system shall electronically track flight,
33 maintenance, and cost information consistently across all State aircraft used to provide
34 passenger transport or photogrammetry services. The Division shall use the system to produce
35 reports that shall be used to ensure the safe, efficient operations of the State aviation fleet.

36 **"§ 143B-364.4. Fees.**

37 (a) Fee for Passenger Transport and Photogrammetry Services. – The Aviation
38 Management Division shall set fees for use by State agencies of aviation passenger transport
39 and photogrammetry services.

40 (b) Use of Fees. – Fees collected pursuant to this section shall be used to support
41 Aviation Management Division operations, and the total amount of fees collected annually
42 under this section shall not exceed the anticipated operating costs of the Division for the
43 following fiscal year plus an amount sufficient to meet any anticipated nonrecurring expenses
44 associated with inspections, fleet mix studies, maintenance, or related costs for the following
45 fiscal year.

46 (c) Not Subject to Administrative Procedure Act. – The setting of the fees authorized by
47 this section is not subject to Chapter 150B of the General Statutes.

48 **"§ 143B-364.5. Report to Joint Legislative Commission on Governmental Operations.**

49 The Aviation Management Division shall report each year by December 1 to the Joint
50 Legislative Commission on Governmental Operations, the Subcommittees on Transportation of

1 the House of Representatives and Senate Appropriations Committees, and the Fiscal Research
2 Division of the General Assembly on the cost and efficiency of all State aviation programs."

3 **SECTION 1.(c)** The Executive Aircraft Division of the Department of Commerce
4 is transferred to the Aviation Management Division of the Department of Transportation. This
5 transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.
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7 **PART II. SALE OF CERTAIN AIRCRAFT AND OTHER MATTERS**

8
9 **SECTION 2.(a)** The aircraft proposed for elimination in Exhibit 15 of the Program
10 Evaluation Division's report entitled "Selling 25 Underutilized Aircraft May Yield Up to \$8.1
11 Million and Save \$1.5 Million Annually" (Report 2010-04), and associated records, property,
12 unexpended balances of appropriations, allocations or other funds, are transferred to the
13 Aviation Management Division. Affected agencies may designate the particular aircraft that are
14 transferred so long as the number of aircraft proposed for elimination by the report are in fact
15 transferred. State agencies required by this section to transfer aircraft to the Division shall
16 reduce personnel accordingly.

17 As soon as practicable, the Aviation Management Division shall obtain appraisals
18 and sell any of the aircraft transferred pursuant to this section that can be sold. The net proceeds
19 from these sales shall be remitted on a quarterly basis to the State Treasurer for deposit into the
20 General Fund. Any aircraft transferred pursuant to this section that cannot be sold because of
21 restrictions contained in federal law or agreements with the federal government shall cease to
22 be used by State agencies, and the Division shall arrange for their disposal in the most
23 economically beneficial manner available to the State that satisfies any applicable restrictions.

24 **SECTION 2.(b)** The Aviation Management Division shall terminate leases for, or
25 appraise and sell, the five hangars selected for elimination in Exhibit 17 of the Program
26 Evaluation Division's report entitled "Selling 25 Underutilized Aircraft May Yield Up to \$8.1
27 Million and Save \$1.5 Million Annually" (Report 2010-04) as the sale of aircraft required by
28 subsection (a) of this section makes the elimination of those facilities feasible. For purposes of
29 this subsection, a lease is terminated if it is allowed to expire and not renewed. Nothing in this
30 subsection requires the termination of a contract existing on the effective date of this subsection
31 unless that contract provides a mechanism for termination that does not constitute a breach of
32 contract.

33 **SECTION 2.(c)** The aircraft operations of the North Carolina Area Health
34 Education Program (AHEC) of The University of North Carolina System is transferred to the
35 Aviation Management Division of the Department of Transportation. This transfer shall have
36 all of the elements of a Type I transfer, as defined in G.S. 143A-6. The Division shall give
37 notice to Medical Air, Inc., a nonprofit corporation, that AHEC has been transferred to the
38 Division pursuant to this section and that G.S. 143B-364.1(b), as enacted by Section 1(b) of
39 this act, requires that AHEC henceforth arrange for aviation passenger transport services
40 through the Division. The Division shall further request that since Medical Air, Inc., can no
41 longer lawfully provide these services to AHEC, Medical Air, Inc., be dissolved and the aircraft
42 it owns transferred to the Division.

43 **SECTION 2.(d)** The Aviation Management Division shall obtain a more
44 economically desirable means of housing the aircraft of the Division of Forest Resources of the
45 Department of Environment and Natural Resources that are currently housed at the Hickory
46 Regional Airport than the arrangement currently in existence.

47 **SECTION 2.(e)** The Division of Forest Resources in the Department of
48 Environment and Natural Resources shall implement the safety recommendations of aviation
49 consultant Conklin & de Decker that are summarized in Appendix D of the Program Evaluation
50 Division's report entitled "Selling 25 Underutilized Aircraft May Yield Up to \$8.1 Million and
51 Save \$1.5 Million Annually" (Report 2010-04). The Division of Forest Resources shall file

1 quarterly reports with the Aviation Management Division of the Department of Transportation
2 detailing its implementation of these recommendations until the management database required
3 by G.S. 143B-364.3 is operational.

4 **SECTION 2.(f)** G.S. 143B-437.011 is repealed.

5 **SECTION 2.(g)** There is appropriated from the General Fund to the Division of
6 Forest Resources of the Department of Environment and Natural Resources the sum of
7 fifty-one thousand dollars (\$51,000) for the 2010-2011 fiscal year to contract for additional
8 aircraft support for fire protection as needed. It is the intent of the General Assembly that these
9 funds be recurring.

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11 **PART III. AVIATION MANAGEMENT DIVISION'S DUTY TO OVERSEE STATE**
12 **AVIATION PROGRAMS OTHER THAN PASSENGER TRANSPORT AND**
13 **PHOTOGRAMMETRY SERVICES**

14
15 **SECTION 3.** Part 10 of Article 8 of Chapter 143B of the General Statutes reads as
16 rewritten:

17 "Part 10. Aviation Management Division.

18 **"§ 143B-364.1. Aviation Management Division – creation.**

19 (a) Creation. – There is established, within the Department of Transportation, the
20 Aviation Management Division, which shall be organized and staffed in accordance with
21 applicable laws and regulations and within the limits of authorized appropriations.

22 (b) State Agencies to Use Division to Arrange Services. – All State agencies in need of
23 aviation passenger transport services or photogrammetry services shall arrange for those
24 services through the Aviation Management Division in accordance with this Part. As used in
25 this Part, the term 'aviation passenger transport services' means the use of State-owned aircraft
26 to transport persons and does not include the purchase of tickets allowing persons to travel on
27 commercial flights. As used in this Part, the term 'State agency' does not include units of local
28 government.

29 **"§ 143B-364.2. Powers and duties.**

30 The Aviation Management Division shall have the following powers and duties:

31 (1) Aviation Passenger Transport and Photogrammetry. – To operate
32 consolidated aviation passenger transport and photogrammetry services for
33 all State programs and officials. This includes the following powers and
34 duties:

- 35 a. Acquiring, operating, maintaining, and housing aircraft.
- 36 b. Adopting guidelines to govern the use of State aircraft for aviation
37 passenger transportation services, including guidelines governing the
38 appropriate use of aircraft, passenger prioritization, scheduling
39 responsibilities and procedures, and rate structures.
- 40 c. Providing centralized scheduling and aviation passenger
41 transportation services to State entities.
- 42 d. Ensuring safety guidelines and requirements are met for staff and
43 aircraft operations.
- 44 e. Determining the appropriate number of aircraft and personnel
45 required to meet the State's needs. Fleet mix studies shall be
46 conducted periodically to determine the appropriate number and type
47 of aircraft needed for aviation passenger transport and
48 photogrammetry activities.
- 49 f. Disposing of State aviation assets no longer needed. This may be
50 accomplished through cooperation with the Department of
51 Administration or independently. The net proceeds of any disposition

- 1 under this subdivision shall be remitted to the State Treasurer for
 2 deposit in the General Fund.
- 3 g. Conducting analyses to ensure efficient operation of transportation
 4 aircraft.
- 5 h. Developing a long-term fleet management plan.
- 6 (2) ~~Exercising the powers and duties exercised by the Division of Aviation of~~
 7 ~~the Department of Transportation prior to the enactment of this~~
 8 ~~section. Aviation Services Other Than Passenger Transport and~~
 9 ~~Photogrammetry. – To provide management oversight for non-passenger and~~
 10 ~~non-photogrammetry aircraft. These aircraft shall continue to be operated~~
 11 ~~under the control of individual State agencies, but the Division shall assume~~
 12 ~~management oversight of them in accordance with this subdivision. With~~
 13 ~~respect to these programs and aircraft, the Division shall have the following~~
 14 ~~powers and duties:~~
- 15 a. Overseeing the management and maintenance of all aircraft owned or
 16 operated by the State.
- 17 b. Reviewing aviation programs to ensure efficient operations across
 18 agencies, encouraging resource sharing, and considering contracting
 19 with private entities where appropriate.
- 20 c. Examining aviation facilities and combining or closing facilities as
 21 needed to ensure efficient operations. The disposal of assets
 22 associated with closing facilities may be accomplished through
 23 cooperation with the Department of Administration or independently.
 24 The net proceeds of any disposition under this sub-subdivision shall
 25 be remitted to the State Treasurer for deposit in the General Fund.
- 26 d. Convening staff from aviation programs to promote information
 27 sharing and efficiencies gained by coordinated operations.
- 28 (3) General Powers and Duties. – The Division has the following powers and
 29 duties:
- 30 a. Housing and operating flight and maintenance data systems pursuant
 31 to G.S. 143B-364.3.
- 32 b. Developing, maintaining, and promoting a safe and effective
 33 statewide aviation system.
- 34 c. Conducting inspections to determine compliance with Division
 35 guidelines, notifying agencies in writing of aviation fleet
 36 deficiencies, and requiring action to correct safety issues.
- 37 d. Acquiring, appraising, and disposing of all State aviation assets. This
 38 includes acting as the purchasing agent for State agencies seeking to
 39 purchase aircraft or other aviation assets.
- 40 e. Assisting State agencies in the preparation of, and approving,
 41 requests for appropriations related to State aviation.
- 42 f. Developing policies and procedures, including identification of
 43 aviation management tools such as data tracking programs, to guide
 44 management oversight of all State aviation resources.
- 45 g. Exercising the powers and duties exercised by the Division of
 46 Aviation of the Department of Transportation prior to the enactment
 47 of this section.

48 **"§ 143B-364.3. Electronic aviation resources management system.**

49 The Aviation Management Division shall acquire and implement a single electronic data
 50 management system to manage all State aviation ~~resources related to aviation passenger~~
 51 ~~transport and photogrammetry services resources.~~ The system shall electronically track flight,

1 maintenance, and cost information consistently across all State aircraft used to provide
2 passenger transport or photogrammetry services. aircraft. The Division shall use the system to
3 produce reports that shall be used to ensure the safe, efficient operations of the State aviation
4 fleet.

5 **"§ 143B-364.4. Fees.**

6 (a) Fee for Passenger Transport and Photogrammetry Services. – The Aviation
7 Management Division shall set fees for use by State agencies of passenger transport and
8 photogrammetry services.

9 (a1) Fee for Oversight of Other Aviation Programs. – The Aviation Management
10 Division shall charge an annual fee to each State agency that operates an aviation program
11 other than a passenger transport or photogrammetry program. The amount of this fee shall not
12 exceed three percent (3%) of the total annual cost of operating the aviation program being
13 assessed the fee.

14 (b) Use of Fees. – Fees collected under this section shall be used to support Aviation
15 Management Division operations, and the total amount of fees collected annually under this
16 section shall not exceed the anticipated operating costs of the Division for the following fiscal
17 year plus an amount sufficient to meet any anticipated one-time expenses associated with
18 inspections, maintenance, or related costs for the following fiscal year.

19 (c) Not Subject to Administrative Procedure Act. – The setting of the fees authorized by
20 this Section is not subject to Chapter 150B of the General Statutes.

21 **"§ 143B-364.5. Report to Joint Legislative Commission on Governmental Operations.**

22 The Aviation Management Division shall report each year by December 1 to the Joint
23 Legislative Commission on Governmental Operations, the Subcommittees on Transportation of
24 the House of Representatives and Senate Appropriations Committees, and the Fiscal Research
25 Division of the General Assembly on the cost and efficiency of all State aviation programs.

26 **"§ 143B-364.6. Duty of State agencies to supply information.**

27 A State aviation program shall provide any data requested by the Aviation Management
28 Division in order to facilitate the Division's aviation management oversight. If a State aviation
29 program fails to supply this data, the Division may order the offending aviation program
30 suspended and ground all program aircraft until the data is provided, so long as suspension will
31 not immediately endanger life or property.

32 **"§ 143B-364.7. Suspension of aviation programs.**

33 If data supplied to the Aviation Management Division pursuant to G.S. 143B-364.6
34 indicates noncompliance with the Division's policies and procedures, the Division may order
35 the offending aviation program suspended and ground all program aircraft until the program is
36 in compliance, so long as suspension will not immediately endanger life or property."

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38 **PART IV. EFFECTIVE DATE**

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40 **SECTION 4.** Section 3 of this act becomes effective October 1, 2011. Subsection
41 2(g) of this act becomes effective July 1, 2010. The remainder of this act becomes effective
42 October 1, 2010.