

## CHAPTER 2-06 AIRPORT AUTHORITIES ACT

### **2-06-01. Definitions.**

The following words or terms whenever used or referred to in this chapter have the following respective meanings unless different meanings clearly appear from the context:

1. "Air navigation facility" means any facility, other than one owned and operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices, used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.
2. "Airport" means any area of land or water which is used, or intended for use, for the landing and taking off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights of way, including approaches and clear zones, together with all airport buildings and facilities located thereon.
3. "Airport authority" or "authority" means any regional airport authority or municipal airport authority created pursuant to the provisions of this chapter, and the governing body of a municipality which has determined to exercise the powers of a municipal airport authority, pursuant to section 2-06-02.
4. "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.
5. "Bonds" means any bonds, notes, interim certificates, debentures, or similar obligations issued by an authority pursuant to this chapter.
6. "Clerk" means the custodian of the official records of a municipality.
7. "Governing body" means the official or officials authorized by law to exercise ordinance or other lawmaking powers of a municipality.
8. "Municipal airport authority" or "municipal authority" means a municipal airport authority created pursuant to the provisions of section 2-06-02.
9. "Municipality" means any county, city, or township of this state.
10. "Person" means any individual, firm, partnership, corporation, limited liability company, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.
11. "Project" means any airport operated by the authority, including all real and personal property, structures, machinery, equipment, and appurtenances or facilities which are part of such airport or used or useful in connection therewith either as ground facilities for the convenience of handling aviation equipment, passengers, and freight or as part of aviation operation, air navigation, and air safety operation.
12. "Real property" means lands, structures, and interests in land, including lands under water and riparian rights, and any and all things and rights usually included within the term real property, including not only fee simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property.
13. "Regional airport authority" or "regional authority" means a regional airport authority created pursuant to the provisions of section 2-06-03.

### **2-06-01.1. Aeronautics commission may exercise powers of airport authority - Exceptions.**

The North Dakota aeronautics commission shall have all powers of an airport authority as defined in this chapter, except powers to certify or levy taxes or issue bonds, for the purpose of constructing and operating a public airport near the International Peace Garden and for constructing and operating such other public airports or landing fields near international border

ports of entry, and near state or national parks or near recreational areas as the aeronautics commission may determine to be in the public interest.

#### **2-06-01.2. Airport operation and income.**

The aeronautics commission shall have operational control of airports constructed under the provisions of section 2-06-01.1 and may provide for the imposition of landing fees, granting of fuel and service concessions, or the lease of portions of the premises for other related airport services or for purposes not inconsistent with the use of the premises for airport purposes. All income from the operation of such airports must be deposited in the state treasury in a special operating fund to be known as the airport operating fund. All expenditures from such fund must be within the limits of legislative appropriations and must be made upon vouchers, signed and approved by the director of the aeronautics commission. Upon approval of such vouchers by the office of the budget, warrant-checks for such expenditures must be prepared by the office of management and budget.

#### **2-06-02. Creation of municipal airport authority - Dissolution.**

1. Any municipality, by resolution of its governing body, may create a public body corporate and politic to be known as a municipal airport authority, which is authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof; or the governing body by resolution may determine to exercise any or all powers granted to such authorities in this chapter until or unless such powers are or have been conferred upon a municipal or regional airport authority. Upon the adoption of a resolution creating a municipal airport authority, the governing body of the municipality, pursuant to the resolution, shall appoint five persons as commissioners of the authority. The commissioners who are first appointed are designated to serve for terms of one, two, three, four, and five years, respectively, but thereafter, each commissioner must be appointed for a term of five years, except that vacancies occurring otherwise than by expiration of term must be filled for the unexpired term by the governing body.
2. After payment of all debts, a municipal airport authority may be dissolved by resolution of the governing body of the municipality. Before dissolution, the property of the airport authority either must be transferred to the municipality or sold.

#### **2-06-03. Creation of regional airport authority - Dissolution.**

1. Two or more municipalities, whether in this state or in an adjoining state, provided that at least one municipality is in North Dakota, by joint resolution, may create a public body, corporate and politic, to be known as a regional airport authority which is authorized to exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. The governing bodies of the municipalities participating in the creation of a regional airport authority, pursuant to such joint resolution, shall appoint at least five persons as commissioners of the regional airport authority. The number to be appointed and their representation must be provided for in the joint resolution. The term of office of each regional airport authority commissioner must be in accordance with subsection 5. Each such regional airport authority, once created, shall organize, elect officers for terms of office to be fixed by agreement, and adopt and amend from time to time rules for its own procedure not inconsistent with section 2-06-06.
2. A regional airport authority may be increased from time to time to serve one or more additional municipalities if each additional municipality and each of the municipalities then included in the regional authority and the commissioners of the regional authority, respectively, adopt a resolution consenting thereto; provided, that if a municipal airport authority for any municipality seeking to be included in the regional authority is then in existence, the commissioners of the municipal authority must consent to the inclusion of the municipality in the regional authority, and if the municipal authority has any bonds outstanding, one hundred per centum of the holders of the bonds must consent,

in writing, to the inclusion of the municipality in the regional authority. Upon the inclusion of any municipality in the regional authority, all rights, contracts, obligations, and property, real and personal, of the municipal authority must be in the name of and vest in the regional authority.

3. A regional airport authority may be decreased if each of the municipalities then included in the regional authority and the commissioners of the regional authority consent to the decrease and make provisions for the retention or disposition of its assets and liabilities; provided, that if the regional authority has any bonds outstanding no decrease may be effected unless one hundred per centum of the holders of the bonds consent thereto in writing.
4. A municipality may not adopt any resolution authorized by this section without a public hearing thereon. Notice thereof must be given at least ten days prior thereto in a newspaper published in the municipality, or if there is no newspaper published therein, then in a newspaper having general circulation in the municipality.
5. All commissioners of a regional airport authority must be appointed for terms of five years each, except that a vacancy occurring otherwise than by expiration of term must be filled for the unexpired term in the same manner as the original appointments.
6. After payment of all debts, a regional airport authority may be dissolved by a joint resolution of the governing bodies of the participating municipalities. Before dissolution, the property of the regional airport authority must be sold, transferred, or distributed as agreed by the participating municipalities. Any remaining funds of the regional airport authority must be distributed to the general funds of the participating municipalities in proportion to their support of the regional airport authority.

**2-06-04. Certificate of incorporation of regional airport authority.**

1. Upon the appointment and qualification of the commissioners first appointed to a regional airport authority, they shall submit to the secretary of state a certified copy of each resolution adopted pursuant to subsection 1 of section 2-06-03 hereof by the municipalities included in the regional authority, and upon receipt thereof the secretary of state shall issue a certificate of incorporation to the regional airport authority.
2. When a regional airport authority is increased or decreased pursuant to section 2-06-03, it shall forward to the secretary of state a certified copy of each resolution adopted pursuant thereto and upon receipt thereof, the secretary of state shall issue an amended certificate of incorporation in accordance therewith.

**2-06-05. Proof of existence of authority.**

1. In any suit, action, or proceeding involving the validity or enforcement of, or relating to any contract of a municipal airport authority, created pursuant to section 2-06-02 hereof, the municipal authority shall be conclusively deemed to have become established and authorized to transact its business and exercise its powers hereunder upon proof of the adoption by the municipality of the resolution creating the municipal airport authority and of the appointment and qualification of the first commissioners thereof. Duly certified copies of the resolution creating the authority and of the certificates of appointment of the commissioners are admissible in evidence in any suit, action, or proceeding.
2. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of a regional airport authority, such regional airport authority shall be conclusively deemed to have become established and authorized to transact its business and exercise its powers hereunder upon proof of the issuance by the secretary of state of a certificate of incorporation of such regional airport authority. A copy of such certificate of incorporation, duly certified by the secretary of state, is admissible in evidence in any suit, action, or proceeding.

## **2-06-06. Commissioners - Compensation - Meetings - Officers.**

Each commissioner shall hold office until the commissioner's successor has been appointed and has qualified. The certificates of the appointment and reappointment of commissioners must be filed with the authority. The appointing authority shall establish the rate of compensation for commissioners and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority.

The powers of each authority are vested in the commissioners thereof. A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting business of the authority and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present.

There must be elected a chairman and vice chairman from among the commissioners. An authority may employ an executive director, secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the municipality or municipalities included in the authority or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

## **2-06-07. General powers of an authority.**

An authority has all the powers necessary or convenient to carry out the purposes of this chapter including the power to certify, annually to the governing bodies creating it, the amount of the proposed tax to be levied by said governing bodies for airport purposes within the limitations in section 2-06-15, including the power:

1. To sue and be sued, to have a seal, and to have perpetual succession.
2. To execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this chapter.
3. To plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities, within this state and within any adjoining state, including the acquisition, construction, installation, equipment, maintenance, and operation at such airports or buildings and other facilities for the servicing of aircraft or for comfort and accommodation of air travelers, and the purchase and sale of supplies, goods, and commodities as are incident to the operation of its airport properties. For such purposes an authority may by purchase, gift, devise, lease, eminent domain proceedings, or otherwise acquire property, real or personal, or any interest therein, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards or to prevent the establishment of airport hazards.
4. To establish comprehensive airport zoning regulations in accordance with the laws of this state. For the purpose of this chapter, a regional airport authority has the same powers as all other political subdivisions in the adoption and enforcement of comprehensive airport zoning regulations as provided for by the laws of this state.
5. To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, existing airports and air navigation facilities; provided, however, an authority may not acquire or take over any airport or air navigation facility owned or controlled by another authority, a municipality, or public agency of this or any other state without the consent of such authority, municipality, or public agency.
6. To establish or acquire and maintain airports in, over, and upon any public waters of this state, any submerged lands under such public waters; and to construct and maintain terminal buildings, landing floats, causeways, roadways, and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof.
7. To establish toll access roadways leading to air carrier terminal buildings. The toll access charge may not exceed one dollar per vehicle.

### **2-06-08. Eminent domain.**

In the acquisition of property by eminent domain proceedings authorized by this chapter, an airport authority shall proceed in the manner provided by chapter 32-15 of the laws of this state, and such other laws that may now or hereafter apply to the state or to political subdivisions of this state in exercising the right of eminent domain. The fact that the property to be acquired by eminent domain proceedings was acquired by its owner by eminent domain proceedings does not prevent its acquisition by such proceedings by the authority. For the purpose of making surveys and examinations relative to eminent domain proceedings, it is lawful for the authority to enter upon the land, doing no unnecessary damage. Notwithstanding the provisions of any other statute or other law of this state, an authority may take possession of any property to be acquired by eminent domain proceedings at any time after the commencement of such proceedings. The authority is not precluded from abandoning such proceedings at any time prior to final order and decree of the court having jurisdiction of such proceedings, provided that the authority shall be liable to the owner of the property for any damage done to the property during possession thereof by the authority.

### **2-06-09. Disposal of airport property.**

Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by section 2-06-13, an authority may, by sale, lease, or otherwise, dispose of any airport, air navigation facility, or other property, or portion thereof or interest therein, acquired pursuant to this chapter. Such disposal by sale, lease, or otherwise must be in accordance with the laws of this state governing the disposition of other public property, except that in the case of disposal to another authority, a municipality or an agency of the state or federal government for use and operation as a public airport, the sale, lease, or other disposal may be effected in such manner and upon such terms as the commissioners of the authority may deem in the best interest of civil aviation.

### **2-06-10. (Effective for taxable years beginning before January 1, 2016) Bonds and other obligations.**

1. An authority may borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at not less than ninety-eight percent of par plus the interest accrued on the bonds to the date of the delivery thereof.
2. Bond issues sold at private sale must bear interest at a rate or rates and be sold at a price resulting in an average net interest cost not exceeding twelve percent per annum. There is no interest rate ceiling on those issues sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities.
3. Any bonds issued pursuant to this chapter by an authority, or by a governing body exercising the powers thereof, are payable, as to principal and interest, solely from revenues of an airport or air navigation facility or facilities, and must so state on their face, but if any such issue of bonds constitutes an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, each bond of the issue is, subject to the requirements of subsection 9, an equally valid and binding special obligation of the authority or municipality, as the case may be, in accordance with its terms, in an amount proportionate to the total amount of the issue which is within the limitation or restriction. Neither the commissioners of an authority nor the governing body of a municipality nor any person executing such bonds is liable personally thereon by reason of the issuance thereof, except to the extent that the bonds, if constituting an indebtedness, exceed any applicable limitation or restriction.
4. In case any of the commissioners or officers of an authority or municipality whose signatures appear on any bonds or coupons cease to be such commissioners or officers after authorization but before the delivery of the bonds, the signature shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners

- or officers had remained in office until delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter are fully negotiable.
5. Any bond reciting in substance that it has been issued by the authority or municipality pursuant to this chapter and for a purpose or purposes authorized by this chapter is conclusively deemed, in any suit, action, or proceeding involving the validity or enforceability of the bond or the security therefor, to have been issued pursuant to this chapter and for such purpose or purposes.
  6. Bonds issued by an authority or municipality pursuant to this chapter are declared to be issued for an essential public and governmental purpose and, together with interest thereon, and income therefrom, are exempt from all taxes.
  7. For the security of any such bonds, the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture authorized to be made as security for revenue bonds issued under chapter 40-35. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be made payable from any and all revenues referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities.
  8. Whenever bonds are issued under this chapter and made payable from revenues of an airport involving municipalities with over ten thousand population, subject to requirements of subsection 9, the governing body of the municipality, if at any time all revenues, including taxes, appropriated and theretofore collected for such bonds are insufficient to pay principal or interest then due, shall levy a general tax upon all of the taxable property in the municipality for the payment of the deficiency. If at any time a deficiency is likely to occur within one year for the payment of principal and interest due on the bonds, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of the deficiency. The taxes are not subject to any limitation of rate or amount applicable to other municipal taxes.
  9. For bonds issued under this section to be an obligation of a municipality or authority, the issuance of the bonds must be approved by a majority vote of the governing body of each municipality involved or, within thirty days after the authority decides it wishes to issue the bonds, the municipality or authority must put the question, specifying the amount of the bond at issue, to the people at an election. The question may be put at a general election, a primary election, a municipal election, or at an election called for the purpose. If a majority of the qualified electors voting on the issue vote in favor of issuing the bonds, the authority or municipality may, to the amount authorized in the election, pledge the general obligation of the authority or municipality to guarantee the repayment of the principal and interest on the bonds.

**(Effective for taxable years beginning after December 31, 2015) Bonds and other obligations.**

1. An authority may borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at not less than ninety-eight percent of par plus the interest accrued on the bonds to the date of the delivery thereof.
2. Bond issues sold at private sale must bear interest at a rate or rates and be sold at a price resulting in an average net interest cost not exceeding twelve percent per annum. There is no interest rate ceiling on those issues sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities.
3. Any bonds issued pursuant to this chapter by an authority, or by a governing body exercising the powers thereof, are payable, as to principal and interest, solely from revenues of an airport or air navigation facility or facilities, and must so state on their face, but if any such issue of bonds constitutes an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, each bond of the issue is, subject to the requirements of subsection 9, an equally valid and binding special obligation of the authority or municipality, as the case may be, in accordance with its

terms, in an amount proportionate to the total amount of the issue which is within the limitation or restriction. Neither the commissioners of an authority nor the governing body of a municipality nor any person executing such bonds is liable personally thereon by reason of the issuance thereof, except to the extent that the bonds, if constituting an indebtedness, exceed any applicable limitation or restriction.

4. In case any of the commissioners or officers of an authority or municipality whose signatures appear on any bonds or coupons cease to be such commissioners or officers after authorization but before the delivery of the bonds, the signature shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter are fully negotiable.
5. Any bond reciting in substance that it has been issued by the authority or municipality pursuant to this chapter and for a purpose or purposes authorized by this chapter is conclusively deemed, in any suit, action, or proceeding involving the validity or enforceability of the bond or the security therefor, to have been issued pursuant to this chapter and for such purpose or purposes.
6. Bonds issued by an authority or municipality pursuant to this chapter are declared to be issued for an essential public and governmental purpose and, together with interest thereon, and income therefrom, are exempt from all taxes.
7. For the security of any such bonds, the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture authorized to be made as security for revenue bonds issued under chapter 40-35. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be made payable from any and all revenues referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities.
8. The governing body of the municipality shall levy a general tax upon all of the taxable property in the municipality for the payment of any deficiency in airport authority funds to pay principal or interest due for revenue bonds issued under this chapter before August 1, 2015, and made payable from revenues of an airport authority. The governing body of the municipality may levy a general tax upon all of the taxable property in the municipality for the payment of any deficiency that is likely to occur within one year in airport authority funds to pay principal or interest due for revenue bonds issued under this chapter before August 1, 2015, and made payable from revenues of an airport authority. The taxes levied by the municipality under this subsection are not subject to any limitation of rate or amount applicable to other municipal taxes.
9. Revenue bonds issued by an airport authority after July 31, 2015, must include the commitment of the municipality for the payment of any deficiency in airport authority funds to pay principal or interest due for revenue bonds as provided in this subsection. The governing body of the municipality shall levy a general tax upon all of the taxable property in the municipality for the payment of any deficiency in airport authority funds to pay principal or interest due for revenue bonds issued under this chapter after July 31, 2015, and made payable from revenues of an airport authority. The governing body of the municipality may levy a general tax upon all of the taxable property in the municipality for the payment of any deficiency that is likely to occur within one year in airport authority funds to pay principal or interest due for revenue bonds issued under this chapter after July 31, 2015, and made payable from revenues of an airport authority. The taxes levied by the municipality under this subsection are not subject to any limitation of rate or amount applicable to other municipal taxes. The commitment of the municipality and the issuance of the bonds must be approved by a majority vote of the governing body of each municipality involved or, upon placement of the question on the ballot at a primary, general, or special election, by approval of a majority of the qualified electors of the municipalities voting on the question.

### **2-06-11. Operation and use privileges.**

1. In connection with the operation of an airport or air navigation facility owned or controlled by an authority, the authority may enter into contracts, leases, and other arrangements for terms not to exceed thirty years with any persons:
  - a. Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;
  - b. Conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility; and
  - c. Making available services to be furnished by the authority or its agents at the airport or air navigation facility.

In each case the authority may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class or privilege or service and must be established with due regard to the property and improvements used and the expenses of operation to the authority; provided, that in no case may the public be deprived of its rightful, equal, and uniform use of the airport, air navigation facility, or portion of facility thereof.

2. Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by section 2-06-13, an authority may by contract, lease, or other arrangements, upon a consideration fixed by it, grant to any qualified person for a term not to exceed thirty years the privilege of operating, as agent of the authority or otherwise, any airport owned or controlled by the authority; provided, that no person may be granted any authority to operate an airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the authority might not have undertaken under subsection 1.

### **2-06-12. Regulations.**

An authority is authorized to adopt, amend, and repeal such reasonable resolutions, rules, regulations, and orders as it deems necessary for the management, government, and use of any airport or air navigation facility owned by it or under its control. No rule, regulation, order, or standard prescribed by the commission may be inconsistent with, or contrary to, any act of the Congress of the United States or any regulation promulgated or standard established pursuant thereto. The authority shall keep on file at the principal office of the authority for public inspection a copy of all its rules and regulations.

### **2-06-13. Federal and state aid.**

1. An authority is authorized to accept, receive, receipt for, disburse, and expend federal and state 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 chapter. All federal moneys accepted under this section must be accepted and expended by the authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section must be accepted and expended by the authority upon such terms and conditions as are prescribed by the state.
2. An authority is authorized to designate the state aeronautics commission as its agent to accept, receive, receipt for, and disburse federal and state 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 chapter; and to designate the state aeronautics commission as its agent in contracting for and supervising the planning, acquisition, development, construction, improvement, maintenance, equipment, or operation of any airport or other air navigation facility. An authority may enter into an agreement with the said aeronautics commission prescribing the terms and conditions of the agency in accordance with such terms and conditions as are prescribed by the United States, if federal money is involved, and in accordance with the applicable laws of this state. All federal moneys accepted under this section by the state aeronautics commission must be accepted and transferred or expended by said commission upon



such terms and conditions as are prescribed by the United States. All moneys received by the state aeronautics commission pursuant to this subsection shall be deposited in the state treasury, and unless otherwise prescribed by the agency from which such moneys were received, must be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes.

**2-06-14. (Effective for taxable years beginning before January 1, 2016) Tax levy may be certified by airport authority or municipality.**

The airport authority may certify annually to the governing bodies, the amount of tax to be levied by each municipality participating in the creation of the airport authority, and the municipality shall levy the amount certified, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes for airport purposes. The levy made may not exceed the maximum levy permitted by the laws of this state for airport purposes. The municipality shall collect the taxes certified by an airport authority in the same manner as other taxes are levied and collected. The proceeds of such taxes must be deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this chapter. Prior to the issuance of bonds under section 2-06-10 the airport authority or the municipality may by resolution covenant and agree that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be certified, levied, and deposited annually until the bonds and interest are fully paid.

**(Effective for taxable years beginning after December 31, 2015) Tax levy may be requested by airport authority or municipality - Financial report.** An airport authority may request annually from the governing bodies, an amount of tax to be levied by each municipality participating in the creation of the airport authority, and the municipality may levy the amount requested, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes for airport purposes. With its levy request under this section, an airport authority may certify its current and anticipated revenues and resources, any anticipated revenue shortfall for bonded debt payment, and the amount necessary from its property tax levy authority for its annual principal and interest payment for bonded debt incurred under this chapter and, if it finds that the certified amount is necessary for the annual bonded debt payment, the municipality shall levy for the airport authority not less than the certified amount. In the year for which the levy is sought, an airport authority that is not a city or county governing body and which is seeking approval of a property tax levy of a city or county governing body under this chapter must file with the auditor of each participating city or county, at a time and in a format prescribed by the auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the airport authority during that year. The levy made may not exceed the maximum levy permitted by the laws of this state for airport purposes.

The municipality shall collect the taxes levied for an airport authority in the same manner as other taxes are levied and collected. The proceeds of such taxes must be deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this chapter.

Prior to the issuance of bonds under section 2-06-10 the airport authority or the municipality may by resolution provide its commitment as provided in section 2-06-10 that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be certified, levied, and deposited annually until the bonds and interest are fully paid.

**2-06-15. (Effective for taxable years beginning before January 1, 2016) County tax levy for airport purposes.**

In counties supporting airports or airport authorities, a levy not exceeding the limitation in subsection 1 of section 57-15-06.7 may be made for such purposes, but this levy shall not apply to any city, township, or park district that already has an airport levy.

**(Effective for taxable years beginning after December 31, 2015) Tax levy by county, city, or township for airport or airport authority purposes.** A county, city, or township

supporting an airport or airport authority may levy not exceeding four mills for airport or airport authority purposes. If any city or township within the county is levying a tax for support of an airport or airport authority and the total of the county and city or county and township levies exceeds four mills, the county tax levy within the city or township levying under this section must be reduced so the total levy in the city or township does not exceed four mills.

**2-06-16. Joint operations.**

1. For the purposes of this section, unless otherwise qualified, the term "public agency" includes municipality and authority, each as defined in this chapter, any agency of the state government and of the United States, and any municipality, political subdivision, and agency of an adjoining state; and the term "governing body" includes commissioners of an authority, the governing body of a municipality, and the head of an agency of a state or the United States if the public agency is other than an authority or municipality. All powers, privileges, and authority granted by this chapter may be exercised and enjoyed by an authority jointly with any public agency of this state, and jointly with any public agency of any adjoining state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise of enjoyment. Any agency of the state government, when acting jointly with any authority, may exercise and enjoy all the powers, privileges, and authority conferred by this chapter upon an authority.
2. Any two or more public agencies may enter into agreements with each other for joint action pursuant to the provisions of this section. Each agreement must specify its duration, the proportionate interest which each public agency must have in the property, facilities, and privileges involved in the joint undertaking, the proportion of costs of operation, etc., to be borne by each public agency, and such other terms as are deemed necessary or required by law. The agreement may also provide for amendments and termination; disposal of all or any of the property, facilities, and privileges jointly owned, prior to, or at such times as said property, facilities, and privileges, or any part thereof, cease to be used for the purposes provided in this chapter, or upon termination of the agreement; the distribution of the proceeds received upon any disposal, and of any funds or other property jointly owned and undisposed of; the assumption of payment of any indebtedness arising from the joint undertaking which remains unpaid upon the disposal of all assets or upon a termination of the agreement; and such other provisions as may be necessary or convenient.
3. Public agencies acting jointly pursuant to this section shall create a joint board which shall consist of members appointed by the governing body of each participating public agency. The number to be appointed, their term and compensation, if any, must be provided for in the joint agreement. Each joint board shall organize, select officers for such terms as are fixed by the agreement, and adopt and amend from time to time rules for its own procedure. The joint board has power, as agent of the participating public agencies, to plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police any airport or air navigation facility or airport hazard to be jointly acquired, controlled, and operated, and the board may be authorized by the participating public agencies to exercise on behalf of its constituent public agencies all the powers of each with respect to the airport, air navigation facility, or airport hazard, subject to the limitations of subsection 4.
4.
  - a. The total expenditures to be made by the joint board for any purpose in any calendar year must be as determined by a budget approved by the constituent public agencies on or before the preceding December first, or as otherwise specifically authorized by the constituent public agencies.
  - b. No airport, air navigation facility, airport hazard, or real or personal property, the cost of which is in excess of sums fixed therefor by the joint agreement or allotted in the annual budget, may be acquired, established, or developed by the joint board without the approval of the governing bodies of its constituent public agencies.

- c. Subject to chapter 32-15, eminent domain proceedings under this section may be instituted by the joint board only by authority of the governing bodies of the constituent public agencies of the joint board. If so authorized, such proceedings must be instituted in the names of the constituent public agencies jointly, and the property so acquired shall be held by said public agencies as tenants in common.
  - d. The joint board may not dispose of any airport, air navigation facility, or real property under its jurisdiction except with the consent of the governing bodies of its constituent public agencies, provided that the joint board may, without such consent, enter into contracts, leases, or other arrangements contemplated by section 2-06-11 of this chapter.
  - e. Any resolutions, rules, regulations, or orders of the joint board dealing with subjects authorized by section 2-06-11 become effective only upon approval of the governing bodies of the constituent public agencies, provided that upon such approval, the resolutions, rules, regulations, or orders of the joint board have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, rules, regulations, or orders of each public agency would have in its own territory or jurisdiction.
5. For the purpose of providing the joint board with moneys for the necessary expenditures in carrying out the provisions of this section, a joint fund shall be created and maintained, into which must be deposited the share of each of the constituent public agencies as provided by the joint agreement. Any federal, state, or other grants, contributions, or loans, and the revenues obtained from the joint ownership, control, and operation of any airport or air navigation facility under the jurisdiction of the joint board must be paid into the joint fund. Disbursements from such fund must be made by order of the board, subject to the limitations prescribed in subsection 4.

**2-06-17. Public purpose.**

The acquisition of any land, or interest therein, pursuant to this chapter, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of airports and air navigation facilities, including the acquisition or elimination of airport hazards, and the exercise of any other powers herein granted to authorities and other public agencies, to be severally or jointly exercised, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of any authority or other public agency in the manner and for the purposes enumerated in this chapter shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

**2-06-18. Airport property and income exempt from taxation.**

Any property in this state acquired by an authority for airport purposes pursuant to the provisions of this chapter, and any income derived by the authority from the ownership, operation, or control thereof, is exempt from taxation to the same extent as other property used for public purpose.

**2-06-19. Municipal cooperation.**

For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of airports and air navigation facilities pursuant to the provisions of this chapter, any municipality for which an authority has been created may, upon such terms, with or without consideration, as it may determine:

1. Lend or donate money to the authority.
2. Provide that all revenues received by the municipality for airport purposes, be transferred, paid, or credited to an airport authority fund. The city auditor or county treasurer may establish and maintain the fund to account for airport authority revenues and shall make payments from the fund for invoices that have been submitted and approved by the governing body of the airport authority. On request of the city auditor

or county treasurer and during an audit, the governing board of the airport authority shall supply its records. The records must be provided on a timely basis. The fund may not revert to the governing body of the municipality at the end of any fiscal year. The fund must be used exclusively for the establishment and maintenance of airport facilities.

3. Cause water, sewer, or drainage facilities, or any other facilities which it is empowered to provide, to be furnished adjacent to or in connection with such airports or air navigation facilities.
4. Dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or any other rights or privileges therein to the authority.
5. Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, and walks from established streets or roads to such airports or air navigation facilities.
6. Do any and all things, whether or not specifically authorized in this section and not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction, or operation of airports and air navigation facilities.
7. Enter into agreements with the authority respecting action to be taken by the municipality pursuant to the provisions of this section.

**2-06-20. Out-of-state airport jurisdiction authorized - Reciprocity with adjoining states and governmental agencies.**

1. For the purpose of this section, "governmental agency" means any municipality, city, town, county, public corporation, or other public agency.
2. This state or any governmental agency of this state having any powers with respect to planning, establishing, acquiring, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, or protecting airports or air navigation facilities within this state, may exercise those powers within any state or jurisdiction adjoining this state, subject to the laws of that state or jurisdiction.
3. Any state adjoining this state or any governmental agency thereof may plan, establish, acquire, develop, construct, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities within this state, subject to the laws of this state applicable to airports and air navigation facilities. Subject to chapter 32-15, the adjoining state or governmental agency has the power of eminent domain in this state, which must be exercised in the manner provided by the laws of this state governing condemnation proceedings, provided that the power of eminent domain may not be exercised unless the adjoining state authorizes the exercise of that power therein by this state or any governmental agency thereof having any of the powers mentioned in this section.
4. The powers granted in this section may be exercised jointly by two or more states or governmental agencies, including this state and its governmental agencies, in such combination as may be agreed upon by them.

**2-06-21. Supplemental authority.**

In addition to the general and special powers conferred by this chapter, every authority is authorized to exercise such powers as are necessary incidental to the exercise of such general and special powers.

**2-06-22. Savings clause - Airport zoning.**

Nothing contained in this chapter shall be construed to limit any right, power, or authority of a municipality to regulate airport hazards by zoning.

**2-06-23. Short title.**

This chapter may be cited as the Airport Authorities Act.