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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991

ENROLLED

SENATE BILL NO. 512

(By Senator Wootton)

PASSED March 6, 1991

In Effect from Passage

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Senate Bill No. 512

(BY SENATOR WOOTON)

[Passed March 6, 1991; in effect from passage.]

AN ACT to amend and reenact article twenty-nine-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county airport authority; and providing generally therefor.

Be it enacted by the Legislature of West Virginia:

That article twenty-nine-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 29A. COUNTY AIRPORT AUTHORITIES.

§8-29A-1. County airport authority authorized as public agency.

1 The county commission of a county is hereby auth-
2 orized to create and establish as a public agency a
3 county airport authority to be known as the
4 “_____ County Airport
5 Authority” for the purposes and in the manner
6 hereinafter set forth.

§8-29A-2. Appointment of members; powers and duties; compensation; terms; removal or replacement.

1 (a) The management and control of the county

2 airport authority, its property, operations, business
3 and affairs, shall be lodged in a board of five persons
4 who shall be known as “Members of the Authority”.
5 The board shall constitute and be a public corporation
6 under the name of “_____”
7 County Airport Authority” and as such shall have
8 perpetual succession, may contract and be contracted
9 with, sue and be sued, plead and be impleaded, and
10 have and use a common seal.

(b) All members shall be appointed by the county commission: *Provided*, That one member of the authority shall be a member of the county commission: *Provided, however*, That of the remaining four members of the authority no more than two shall be members of the same political party. Members shall be residents of the county and be appointed for a term of five years, except that as to the first four appointed to the first board appointed, the term of one member shall expire on the first day of July next ensuing and the term of the next member shall expire on the first day of July two years thereafter, the term of another member shall expire on the first day of July three years thereafter and the term of the remaining member shall expire on the first day of July four years thereafter: *Provided further*, That the county commissioner appointed to serve as a member of the authority shall not serve for a term as member of the authority which is longer than the term of office as a member of the county commission.

(c) The members of said board shall receive no compensation for their services, but they shall be entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties as members of said board. They shall not be personally interested, directly or indirectly, in any contract entered into by said board, or hold any remunerative position in connection with the establishment, construction, improvement, extension, development, maintenance or operation of any of the property under their control as members of said board.

43 (d) The county commission shall have the power to
44 remove any member of the authority for consistent
45 violations of any provisions of this article, for reason-
46 able cause which shall include, but not be limited to,
47 a continued failure to attend meetings of the author-
48 ity, failure to diligently pursue the objectives for
49 which the authority was created or failure to perform
50 any other duty prescribed by law, or for any miscon-
51 duct in office: *Provided*, That if the county commission
52 desires to remove a member of the authority it shall
53 notify said member in writing, stating the reasons for
54 the county commission desiring said removal. Within
55 ten days of the receipt of the written notice of removal
56 by the member of the authority, the member may
57 request a hearing before the county commission, and
58 any such hearing shall be held within ten days of the
59 member's request for said hearing.

60 If any member of the authority shall die, resign or
61 be removed, or for any other reason cease to be a
62 member of the authority, the county commission shall
63 within thirty days appoint another person to fill the
64 unexpired portion of the term of such member.

§8-29A-3. Powers generally.

1 (a) The authority is hereby authorized and empow-
2 ered to acquire, equip, construct, improve, maintain
3 and operate a public airport within the county, with
4 all usual and convenient appurtenances and facilities
5 pertaining thereto, including, but not limited to, an
6 industrial park and a waterworks or sewerage system
7 or a combined waterworks and sewerage system, and
8 said airport shall be for the convenience and accom-
9 modation of the inhabitants of the county and the
10 public generally.

11 (b) A county airport authority is hereby given power
12 and authority as follows:

13 (1) To make and adopt all necessary bylaws, rules
14 and regulations for its organization and operations not
15 inconsistent with law;

16 (2) To elect its own officers, to appoint committees

17 and to employ and fix the compensation for personnel
18 including attorneys necessary for its operation;

19 (3) To delegate any authority given to it by law to
20 any of its officers, committees, agents or employees;

21 (4) To enter into contracts with any person, govern-
22 mental department, firm or corporation, and generally
23 to do any and all things necessary or convenient for
24 the purpose of acquiring, equipping, constructing,
25 maintaining, improving, extending, financing and
26 operating a public airport, including the development
27 of an industrial park in the same general area;

28 (5) To apply for, receive and use grants-in-aid,
29 donations and contributions from any source or
30 sources, including, but not limited to, the federal
31 government and any agency thereof, and the state of
32 West Virginia, and to accept and use bequests, devises,
33 gifts and donations from any person, firm or
34 corporation;

35 (6) To enter into any agreement with any person,
36 including the federal or state government, or any
37 agency or subdivision thereof, in connection with
38 obtaining funds for its purposes, which agreement
39 may contain such provisions, covenants, terms and
40 conditions as the authority may deem advisable;

41 (7) To accept contributions from time to time by the
42 county commission and by any persons that shall
43 desire so to do;

44 (8) To acquire lands, structures or buildings and hold
45 title thereto in its own name, including, whenever it
46 shall be deemed necessary by the authority, to take or
47 acquire such property either in fee or as easements, to
48 purchase same directly or through its agents from the
49 owner or owners thereof, or to exercise the power of
50 eminent domain in the manner provided for condem-
51 nation proceedings in chapter fifty-four of this code
52 inasmuch as such purposes are hereby declared to be
53 public uses for which private property may be taken:
54 *Provided*, That such right of eminent domain shall not
55 apply to the development of an industrial park;

56 (9) To sell, lease or otherwise dispose of any real
57 estate which it may own;

58 (10) To purchase, own, hold, sell and dispose of
59 personal property;

60 (11) To borrow money and execute and deliver
61 negotiable notes, mortgage bonds, revenue bonds,
62 other bonds, debentures and other evidences of indebt-
63 edness therefor, and give such security therefor as
64 shall be requisite, including giving a mortgage or deed
65 of trust on its airport properties and facilities or
66 assigning or pledging the gross or net revenues
67 therefrom;

68 (12) To raise funds by the issuance and sale of
69 revenue bonds or refunding bonds in the manner
70 provided by the applicable provisions of article sixteen
71 of this chapter, it being hereby expressly provided
72 that, for that purpose, a county airport authority shall
73 be treated as a municipality or board as those terms
74 are used in said article sixteen;

75 (13) To acquire, construct, establish, equip, maintain
76 and operate, within a reasonable distance of the
77 airport, a waterworks, a sewerage system or a com-
78 bined waterworks and sewerage system for its own
79 use and for the use of any person, and to finance the
80 same by the issuance of revenue bonds as provided in
81 this article: *Provided*, That no existing waterworks or
82 sewerage system, or any part thereof, may be acquired
83 without the prior consent and approval of the public
84 service commission;

85 (14) To establish, charge and collect reasonable fees
86 and charges for services or for the use of any part of
87 its property or facilities, or for both services and such
88 use;

89 (15) To lease its airport and all or any part of the
90 appurtenances and facilities therewith to any available
91 lessee, subject to all constitutional and statutory
92 limitations with respect thereto, at such rental and
93 upon such terms and conditions as the authority shall
94 deem proper: *Provided*, That such lease shall be for

95 some purpose associated with airport activities and
96 subordinate to any mortgage or deed of trust executed
97 by the authority; and

98 (16) To expend its funds in the execution of the
99 powers and authority herein given.

§8-29A-4. Funds; accounting; reporting.

1 All funds received by the authority from whatever
2 source shall be deposited in such bank or banks as the
3 authority may direct and shall be withdrawn there-
4 from in such manner as the authority may direct. The
5 authority shall keep strict account of all its receipts
6 and expenditures and shall each quarter make a
7 quarterly report to the county commission containing
8 an itemized account of its receipts and disbursements
9 during the preceding quarter. Such report shall be
10 made within sixty days after the termination of the
11 quarter.

12 Within sixty days after the end of each fiscal year,
13 the authority shall make an annual report containing
14 an itemized statement of its receipts and disburse-
15 ments for the preceding year, and such annual report
16 shall be published as a Class II-0 legal advertisement
17 in compliance with the provisions of article three,
18 chapter fifty-nine of this code, and the publication
19 area for such publication shall be the county. The
20 books, records and accounts of the authority shall be
21 subject to audit and examination by the office of the
22 state tax commissioner of West Virginia and by any
23 other proper public official or body in the manner
24 provided by law.

§8-29A-5. Full-time employees of the authority to be public employees.

1 Any person who serves regularly as an employee,
2 full time, on a salary basis, whose tenure is not
3 restricted as to temporary or provisional appointment,
4 in the service of, and whose compensation is payable
5 in whole or in part by the authority, shall be deemed
6 to be a public employee and shall be subject to any
7 and all applicable provisions of law relating thereto,

8 including, but not limited to, the workers' compensa-
9 tion act and the West Virginia public employees
10 insurance act.

**§8-29A-6. Authority may incur indebtedness; county not
liable for indebtedness.**

1 The authority may incur any proper indebtedness
2 and issue any obligations and give any security
3 therefor which it may deem necessary or advisable in
4 connection with carrying out its purposes. No statutory
5 limitation with respect to the nature or amount of
6 indebtedness which may be incurred by municipalities
7 or other bodies shall apply to indebtedness of the
8 authority. No indebtedness of any nature of the
9 authority shall constitute an indebtedness of the
10 county commission, nor of the county, or a charge
11 against any property of the county. No obligation
12 incurred by the authority shall give any right against
13 any member of the county commission or any mem-
14 ber of the board of the authority. The rights of
15 creditors of the authority shall be solely against the
16 authority as a corporate body and shall be satisfied
17 only out of property held by it in its corporate
18 capacity.

**§8-29A-7. Exemption from taxes; payment for portion used
as industrial park.**

1 The authority shall be exempt from the payment of
2 any taxes or fees to the state or any subdivisions
3 thereof or any municipalities or to any officer or
4 employee of the state or of any subdivision thereof or
5 of any municipalities. The property of the authority
6 shall be exempt from all local and municipal taxes.
7 Bonds, notes, debentures and other evidence of indebt-
8 edness of the authority are declared to be issued for a
9 public purpose and to be public instrumentalities, and,
10 together with interest thereon, shall be exempt from
11 taxes.

12 It shall be the duty of the county assessor on the
13 first day of July of each year to ascertain what portion
14 of the real and personal property of the authority, if
15 any, is devoted to use as an industrial park and to

16 appraise such property as if taxable. The assessor shall
17 likewise determine the tax which would be levied
18 upon such property if it were taxable. On the first day
19 of August of the year following such determination
20 and the first day of February thereafter, the authority
21 shall pay unto the sheriff of the county a sum of
22 money equal to that which would have been due if the
23 property were taxable, which sums shall be distrib-
24 uted by the sheriff as if such sums were tax receipts.

**§8-29A-8. County commission authorized to convey present
airport properties and facilities to the
authority.**

1 Notwithstanding any other provision of law to the
2 contrary, the county commission of a county is hereby
3 authorized to convey to the authority the present
4 airport property owned by the county, if any, situate
5 in the county, together with all the appurtenances and
6 facilities therewith, such conveyance to be without
7 consideration or for such price and upon such terms
8 and conditions as the county commission shall deem
9 proper.

§8-29A-9. Disposition of surplus.

1 If the authority should realize a surplus, whether
2 from operating the airport or leasing it for operation,
3 over and above the amount required for the mainte-
4 nance, improvement and operation of the airport and
5 for meeting all required payments on its obligations, it
6 shall set aside such reserve for future operations,
7 improvements and contingencies as it shall deem
8 proper and shall then apply the residue of such
9 surplus, if any, to the payment of any recognized and
10 established obligations not then due; and after all such
11 recognized and established obligations have been paid
12 off and discharged in full, the authority shall, at the
13 end of each fiscal year, set aside the reserve for future
14 operations, improvements and contingencies, as afore-
15 said, and then pay the residue of such surplus, if any,
16 to the county commission, to be used by the county
17 commission for general county purposes.

§8-29A-10. Procedure for dissolution of authority.

1 The authority may at any time pay off and discharge

2 in full all of its indebtedness, obligations and liabilities,
3 convey the airport properties, appurtenances and
4 facilities to the county commission and be dissolved.
5 Before making such conveyance of its properties, the
6 authority shall give notice of its intention to do so and
7 of its intention to be dissolved, and said notice shall be
8 published as a Class I-0 legal advertisement in com-
9 pliance with the provisions of article three, chapter
10 fifty-nine of this code, and the publication area for
11 such publication shall be the county. Affidavits from
12 the publishers of the newspapers showing such publi-
13 cation shall be filed with the county commission
14 before the deed conveying said properties is delivered.
15 Any funds remaining in the hands of the authority at
16 the time of the conveyance of said properties shall be
17 by the authority paid over to the county commission
18 to be used by it for purposes in connection with said
19 airport. Upon the payment of its indebtedness, obliga-
20 tions and liabilities, the publishing of the notices
21 aforesaid, the conveyance of its properties, and the
22 paying over to the county commission of any funds
23 remaining in its hands, the authority shall cause a
24 certificate showing its dissolution to be executed under
25 its name and seal and to be recorded in the office of
26 the clerk of the county commission and thereupon its
27 dissolution shall be complete.

**§8-29A-11. Purpose of article; liberal construction; article
cumulative.**

1 It is the purpose of this article to provide for the
2 acquisition, construction, improvement, extension,
3 maintenance and operation of a public airport and
4 related facilities in a prudent and economical manner,
5 and this article shall be liberally construed as giving to
6 the authority full and complete power reasonably
7 required to give effect to the purposes hereof. The
8 provisions of this article are in addition to and not in
9 derogation of any power existing in the county com-
10 mission of a county under any constitutional or
11 statutory provisions which it may now have, or may
12 hereafter acquire.

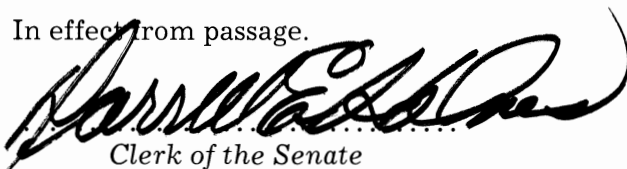
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

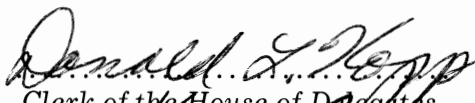

.....
Chairman Senate Committee

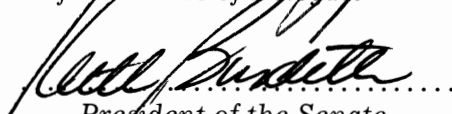

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Chairman House Committee

Originated in the Senate.

In effect from passage.

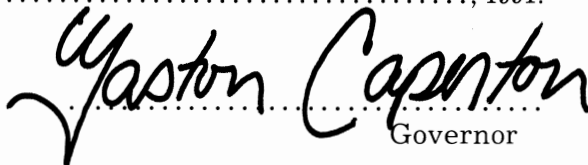

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 14th
day of May, 1991.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/12/91

Time 10:29 am