

WEST VIRGINIA CODE: §17-16B-6

§17-16B-6. Powers and duties of authority.

(a) The authority is granted the following powers and duties:

(1) The authority shall initiate meetings with political subdivisions of the state to assess specific transportation needs and shall determine the needs of the state as a whole in terms of transportation, as well as consider feasibility studies for the purpose of determining the best site locations for transportation centers, terminals, ports and harbors and foreign trade zones.

The authority shall give first consideration to selected high priority opportunities as set forth in the document entitled "Development of an Inland Port Authority", as submitted to the Governor's office of community and industrial development on March 2, 1989.

(2) On or before December 1, 1991, the authority shall prepare and file a comprehensive report with the Governor and the Legislature setting forth the overall strategic plan both short term and long term for accomplishing the purposes set forth in this article.

(3) The public port authority shall coordinate with the West Virginia Parkways, Economic Development and Tourism Authority or other parkways authority, established pursuant to article sixteen-a, chapter seventeen of this code, in the exercise of its powers and duties hereunder and development of appropriate intermodal transportation within the state.

(b) The authority has the following additional powers and duties:

(1) The powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;

(2) Acquire, purchase, install, lease, construct, own, hold, operate, maintain, equip, use and control ports, as defined herein, and such terminals, buildings, roadways, rights-of-way, rails and such structures, equipment, facilities or improvements as are necessary or incident to carry out the provisions of this article, and in connection therewith shall have the further right to lease, install, construct, acquire, own, maintain, control and use any and every kind or character of motive powers and conveyances or appliances necessary or proper to carry goods, wares and merchandise over, along, upon or through the railway, highway, waterway or airway or other conveyance of such transportation system, excluding pipelines;

(3) To apply for and accept loans, grants or gifts of money, property or service from any federal agency or the State of West Virginia or any political subdivision thereof or from any public or private sources available for any and all of the purposes authorized in this article, or imposed thereon by any such federal agency, the State of West Virginia, or any political

subdivision thereof, or any public or private lender or donor, and to give such evidences of indebtedness as may be required;

(4) To act as agent for the United States of America, or any agency, department, corporation or instrumentality thereof, in any manner coming within the purposes or powers of the board;

(5) To initiate preservation of railroad, waterway, highway and airway facilities, to promote economic development and tourism of a specific nature in this state;

(6) To meet and cooperate with similar authorities or bodies of any of the several states contiguous with this state, whose purpose in their respective states is to establish an interstate or intermodal transportation network;

(7) To enter into agreements, contracts or other transactions with any federal, state, county, municipal agency or private entity;

(8) To report annually to the Legislature by December 1, of each year on the status of projects, operations, financial condition and other necessary information relating to the statewide tourist intermodal transportation system and public port authority activities;

(9) To enter into agreements or contracts with the West Virginia railroad maintenance authority for the preservation, operation and use of railroad lines;

(10) The authority is hereby designated and empowered to act on behalf of the state on submitting siting proposals for public ports;

(11) The authority is empowered to take all steps appropriate and necessary to effect siting, development and operation of public ports within the state;

(12) To construct, reconstruct, improve, maintain, repair and operate infrastructure projects at the designated port sites as determined by the public port authority;

(13) To receive and accept from any federal agency grants for or in aid of the construction of any project, and to receive and accept aid or contributions from any sources of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(14) The authority is authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any land, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction or operation of any project upon such terms and at such price as may be considered by it to be reasonable and to take title in the name of the state; and for the purpose of acquiring any lands, rights or easements deemed necessary or incidental for the purposes of the authority, the authority has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right

of eminent domain by cities, incorporated towns, and other municipal corporations;

(15) The authority is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of any port project or any facility related to any such project, with the concurrence of the affected public agency. Other state agencies and local governmental entities in this state, including the West Virginia Housing Development Fund, shall cooperate to the fullest extent the authority deems appropriate to effectuate the duties of the authority. If requested to do so by the authority, the West Virginia Housing Development Fund shall, subject to the provisions of article eighteen, chapter thirty-one of the Code of West Virginia, 1931, as amended, including, without limitation, the approval of its board of directors, issue or use its best efforts to issue, either in its own name or on behalf of the authority, such bonds and notes as may be required to finance the planning, development, construction and operation of any project or any facility related to any project. In the event such bonds or notes are issued by the West Virginia Housing Development Fund, the authority shall enter into all such agreements as the West Virginia Housing Development Fund may determine are necessary to pledge revenues from projects or other funds of the authority sufficient to pay such bonds and notes and to pay all related fees, costs and expenses;

(16) The authority shall initiate meetings with local and area port authority districts, committees and entities in the development of possible port site designations. The authority shall seek coordination, cooperation and feasibility studies from local and area port authority districts, committees and entities;

(17) The authority shall take affirmative steps to coordinate freely all aspects of the submission of a siting proposal for any port project, and to coordinate fully the development of any project or any facility related to any project with the federal government agency;

(18) To do any and all things necessary to carry out and accomplish the purposes of this article, including issuing revenue bonds or requesting other appropriate state agencies to issue and administer public port revenue bonds to finance projects;

(19) To assist and encourage the West Virginia railroad maintenance authority to purchase railroad tracks being abandoned by any common carrier, and to financially assist the railroad maintenance authority in making such purchase;

(20) To collect reasonable fees and charges in connection with making and servicing loans, notes, bonds, obligations, commitments and other evidence of indebtedness, and in connection with providing technical, consultive and project assistance services; and

(21) To do any and all things necessary to carry out and accomplish the purposes of this article.

(c) Incidental to the development of a comprehensive strategic plan for intermodal transportation, the executive director and staff of the authority shall analyze the shipment of

products through the ports of the state for the purpose of expediting such shipments, and shall be authorized to collect and analyze such information, which is maintained in the ordinary course of business by the person, firm or corporation providing such information, pertaining to the transportation of products which has been moved by rail, water, highway or air to and from points within and without this state:

(1) Any such information and data supplied to the executive director of the authority shall be for exclusive use of the executive director and the staff of the authority. Such information is deemed confidential and is not subject to disclosure under the freedom of information act. Neither the executive director nor any staff member of the authority shall publicly disclose this information and data to any member of the board of the authority, nor to any person, firm, corporation or agent. It shall be unlawful for any officer or employee of this state to divulge or make known in any manner any information obtained pursuant to this subsection or disclose information concerning the personal or business affairs of any individual or the business of any single firm or corporation, or disclose any particulars set forth or disclosed in any report or other information provided to the authority.

(2) Any officer or employee (or former officer or employee) of this state who violates this subsection shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, together with costs of prosecution.

(3) In carrying out the functions theretofore described, the authority shall be deemed to be performing an essential governmental function as an instrumentality of the State of West Virginia.