WEST VIRGINIA CODE CHAPTER 8 ARTICLE 29

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§8-29-1. Airport authorities authorized; definitions.

(a) Any two or more municipalities, any two or more contiguous counties, or any county or two or more contiguous counties and one or more municipalities located therein or partly therein, of this state, are hereby authorized to create and establish one or more authorities for the purpose of acquiring, establishing, constructing, equipping, improving, financing, maintaining, and operating a regional airport or international airport and ancillary airports, as the case may be, for the use of aircraft: *Provided*, That no such municipality or county shall participate in such authority unless and until the governing body or county court so provides.

(b) As used in this article, the following terms have the following meanings:

(1) "Abandoned aircraft" means either:

(A) An aircraft left in a wrecked, inoperative, or partially dismantled condition on an airport for 45 consecutive calendar days and without a contractual agreement in force between the owner or operator of the aircraft and the airport authority for use of the airport premises; or

(B) An aircraft that has remained in an idle state on an airport for 45 consecutive calendar days without a contractual agreement between the owner or operator of the aircraft and the airport authority for use of the airport premises;

(2) "Aircraft" has the meaning provided in §29-2A-1 of this code;

(3) "Airport" means any airport, heliport, helistop, vertiport, gliderport, seaplane base, ultralight flightpark, manned balloon launching facility, or other aircraft landing or takeoff area operated by an airport operator as that term is defined in §8-29B-2(3);

(4) "Ancillary airport" means any airport, heliport, helistop, vertiport, gliderport, seaplane base, ultralight flightpark, manned balloon launching facility, or other aircraft landing or takeoff area that is owned and operated or operated by agreement by another authority as defined in §8-29-1 of this code;

(5) "Authority" means a regional airport authority created pursuant to the provisions of this article;

(6) "Contiguous counties" means two or more counties which constitute a compact territorial unit within an unbroken boundary wherein one county touches at least one other county but does not require that each county touch all of the other counties so combining; and

(7) "Derelict aircraft" means any aircraft that is not in a flyable condition, does not have a current certificate of air worthiness issued by the federal aviation administration, and whose owner cannot produce satisfactory written documentation from a licensed third-party aircraft mechanic evidencing that they have been hired to actively and fully repair the aircraft to both an airworthy and properly registered condition within six calendar months

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from the date notice is given to the owner.

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§8-29-2. Authorities to be public corporations.

Each authority when created and established, and the members thereof, shall constitute a public corporation and as such, shall have perpetual succession, may contract and be contracted with, sue and be sued, and have and use a common seal.

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§8-29-3. Authorities empowered and authorized to acquire, operate, etc., airports and develop industrial parks; state aeronautics commission.

Each authority is hereby empowered and authorized to acquire, establish, construct, equip, improve, finance, maintain, and operate an international airport, a regional airport, or other airport or landing field and appurtenant facilities so located to best serve the region in which they are located, including, but not limited to, industrial, research, and business parks. Each authority shall be subject to the jurisdiction of the state aeronautics commission to the same extent as a state or municipal airport.

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§8-29-4. Management of authority vested in members; appointment and terms of members; vote of members; valuation of property contributed to an authority; participation by additional municipalities or counties without state.

The management and control of each authority, its property, operations, business and affairs shall be lodged in a board of not less than five nor more than twenty-one individuals who shall be known as members of the authority and who shall be appointed for terms of three years each by the municipalities and county courts contributing moneys or property to the authority. However, the first board shall be comprised of one member appointed by each participating municipality and one member appointed by each participating county court, and any such member shall serve a term of one year, beginning as of the date the authority is created. No more than three members shall serve from one county on the first board.

Each municipality or county shall have one vote for each $5,000 it has contributed to the authority in the form of moneys or property. When property is contributed, the contributing municipality or county court and the authority shall agree in writing at the time the contribution is made as to the fair market value of such property, which valuation shall determine the number of votes to be allocated to the municipality or county on the basis thereof. For the fiscal year during which any authority is formed, the number of votes to which any municipality or county shall be entitled shall be determined as of the time of formation of the authority and shall govern until the end of that fiscal year, even though additional moneys or property are contributed during that fiscal year. Thereafter, the number of votes shall be determined at the end of each fiscal year and such determination shall govern for the ensuing fiscal year, even though additional moneys or property are contributed during that fiscal year. Subsequent to its formation, any authority may permit any municipality or county without this state to participate in the affairs of the authority, to appoint members of the authority in the same manner, and to have such vote or votes beginning as of the next ensuing fiscal year, as prescribed by law with respect to the original participating municipalities or counties or any combination thereof.

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§8-29-5. Substitution of members.

If any member of an authority die, or resign, or be removed, or for any other reason cease to be a member of the authority, the municipality or the county court (or other similar body in the case of an out-of-state participating county) which such member represented shall appoint another individual to fill the unexpired portion of the term of such member.

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§8-29-6. Qualification of members.

To be qualified to serve, members of the board of each authority shall be drawn from residents of the municipality(ies) and/or contiguous county(ies) which created and established the regional airport authority. The municipality or county is each authorized to make their regional airport authority board appointments from within either government entity’s boundaries. Such regional airport authority board membership may be composed of any combination of such qualified municipal and county residents, with number of votes of each municipality and county to remain subject to the requirements of §8-29-4 of this code.

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§8-29-7. Compensation of members.

No member of the board of an authority shall receive any compensation, whether in form of salary, per diem allowance or otherwise, for or in connection with his services as such member. Each member shall, however, be entitled to reimbursement by the authority for all reasonable and necessary expenses actually incurred in connection with the performance of his duties as such member.

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§8-29-8. Powers of authorities generally.

Each authority is hereby given plenary power and authority as follows:

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

(2) To elect its own officers, to appoint committees, and to employ and fix the compensation for personnel necessary for its operation;

(3) To enter into contracts with any person, including both public and private corporations, or governmental department or agency, and generally to do any and all things necessary or convenient for the purpose of acquiring, establishing, constructing, equipping, improving, financing, maintaining, and operating a public airport to best serve the region in which it is located, including the development of an industrial, research, or business park in the same general area;

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

(5) To apply for, receive, and use grants-in-aid, donations, and contributions from any source or sources, including, but not limited to, the federal government and any department or agency thereof, and this state subject to any constitutional and statutory limitations with respect thereto, and to accept and use bequests, devises, gifts, and donations from any person;

(6) To acquire, receive, take, and hold property, whether by purchase, gift, lease, devise, or otherwise, and to use and manage said property, and to develop, improve, and maintain any property owned, leased, or controlled by it;

(7) To purchase, own, hold, sell, and dispose of personal property and to sell, lease, or otherwise dispose of any real property which it may own;

(8) To borrow money and execute and deliver negotiable notes, mortgage bonds, other bonds, debentures, and other evidences of indebtedness therefor, and give such security therefor as shall be requisite, including giving a mortgage or deed of trust on its airport properties and facilities or assigning or pledging the gross or net revenues therefrom;

(9) To raise funds by the issuance and sale of revenue bonds in the manner provided by the applicable provisions of §8-16-1 *et seq*. of this code, it being hereby expressly provided that for the purpose of the issuance and sale of revenue bonds, each authority is a "governing body" as that term is used in said article only;

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

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(11) To expend its funds in the execution of the powers and authority herein given;

(12) To apply for, receive, and use loans, grants, donations, technical assistance, and contributions from any regional or area commissions that may be established;

(13) To prescribe by bylaw the manner of financial participation by members;

(14) To construct, acquire, establish, improve, extend, enlarge, reconstruct, equip, maintain, and repair buildings, structures, and facilities, including roadway access, suitable for use as manufacturing plants, industrial plants, and facilities; research parks and facilities; business parks and facilities; retail shopping areas or centers; parks; exhibits; exhibitions; or the conduct of any lawful business, heliport, or aircraft landing area owned or operated by such authority, and to lease or let such buildings, structures, and facilities or any one or more of them to such tenant or tenants for such term or terms, at such compensation or rental and subject to such provisions, limitations, and conditions as the authority may require or approve; and

(15) Notwithstanding the provisions of §5-22-1 *et seq.*, §5-22A-1 *et seq.*, and §5-22B-1 *et seq.* of this code, and any other provision of this code to the contrary, for any airport development or construction project funded, in whole or in part, through the Federal Aviation Administration Airport Improvement Program or Airport Terminal Program and subject to Federal Aviation Administration standards for design, engineering, and safety, an authority is expressly authorized to procure, contract for, and deliver such airport projects using any project delivery method approved or authorized by the Federal Aviation Administration, including, but not limited to, integrated project delivery, construction manager-at-risk, design-build, progressive design-build, or other alternative delivery methods. Procurement conducted in compliance with applicable Federal Aviation Administration standards and requirements shall be deemed to satisfy the procurement requirements of this state.

(16) To enter into a management agreement or agreements with any county, city, or town in the state for the management by the authority of an existing airport upon such terms and conditions as may be mutually agreeable.

(17) An authority may only exercise the powers delegated to it in this section in the county in which the airport is located or any county contiguous to the county in which the airport is located: *Provided*, That nothing in this subsection shall prohibit an authority from entering into a management agreement for an existing airport with a county that is not contiguous to the county in which the existing airport is located or a city or town located in a county that is not contiguous to the county in which the airport is located.

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§8-29B-8a. Abandoned or derelict aircraft.

(a) If an abandoned or derelict aircraft is discovered on an airport, the airport authority shall:

(1) Make a record of the date the aircraft was discovered on the airport; and

(2) Inquire as to the name and address of any person having an equitable or legal interest in the aircraft, including the owner and any lien holders, by:

(A) Contacting the federal aviation administration, aircraft registration branch, and making a diligent search of the appropriate records; or

(B) Contacting an aircraft title search company.

(b) Within 10 business days of receiving the information requested pursuant to subsection (a) of this section, the airport authority shall notify the owner and all other interested parties by certified mail, return receipt requested:

(1) Of the location of the abandoned or derelict aircraft on the airport;

(2) That fees and charges for the use of the airport by the aircraft have accrued and the amount of those fees and charges;

(3) That the aircraft is subject to a lien pursuant to this section for any unpaid and accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft;

(4) That the lien is subject to enforcement pursuant to this section;

(5) That the airport may use, trade, sell, or remove the aircraft as described in §8-29-3 of this code if, within 30 calendar days after the date of receipt of the notice, the owner or other interested party has not removed the aircraft from the airport and paid in full all accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft; and

(6) That the airport authority may remove the aircraft in less than 30 calendar days if the aircraft poses a danger to the health or safety of users of the airport, as determined by the airport authority.

(c) If, after the inquiry required by subdivision (2), subsection (a) of this section, the owner of the aircraft is unknown or cannot be found, the airport authority shall place a notice upon the aircraft in a conspicuous position containing the information required by subdivisions (2) through (6) of subsection (b) of this section: *Provided,* That said notice shall be not less than eight inches by 10 inches and shall be laminated or otherwise sufficiently weatherproof to withstand normal exposure to rain, snow, and other conditions.

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(d) If, after 30 calendar days of the owner or other interested party receiving the inquiry required by subsection (b) of this section or after 30 calendar days of posting the notice on the aircraft required by subsection (c) of this section, whichever occurs sooner, the owner or other interested party has not removed the aircraft from the airport and paid in full all accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft, or shown reasonable cause for the failure to do so, the airport authority may:

(1) Retain the aircraft for use by the airport, the state, or the unit of local government owning or operating the airport;

(2) Trade the aircraft to another unit of local government or a state agency;

(3) Sell the property; or

(4) Dispose of the property through an appropriate refuse removal company or a company that provides salvage services for aircraft.

(e) If the airport authority elects to sell the aircraft in accordance with subsection (d) of this section, the aircraft shall be sold at public auction after giving notice of the time and place of sale, at least 10 calendar days prior to the date of sale, in a newspaper of general circulation within the county where the airport is located and after providing written notice of the intended sale to all parties known to have an interest in the aircraft.

(f) If the airport authority elects to dispose of the aircraft in accordance with subdivision (4), subsection (d) of this section, the airport authority may negotiate with the company for a price to be received from the company in payment for the aircraft, or, if circumstances so warrant, a price to be paid to the company by the airport authority for the costs of disposing of the aircraft. All information and records pertaining to the establishment of the price and the justification for the amount of the price shall be prepared and maintained by the airport authority.

(g) If the sale price or the negotiated price is less than the airport authority's then current fees and charges against the aircraft, the owner of the aircraft shall remain liable to the airport authority for the fees and charges that are not offset by the sale price or negotiated price.

(h) All costs incurred by the airport authority in the removal, storage, and sale of any aircraft shall be recoverable against the owner of the aircraft.

(i) The airport authority shall have a lien on an abandoned or derelict aircraft for all unpaid fees and charges for the use of the airport by the aircraft and for all unpaid costs incurred by the airport authority for the transportation, storage, and removal of the aircraft. As a prerequisite to perfecting a lien under this section, the airport authority shall serve a notice in accordance with §8-29-2 of this code on the last registered owner and all persons having

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an equitable or legal interest in the aircraft.

(j)(1) For the purpose of perfecting its lien under this section, the airport authority shall record a claim of lien that states:

(A) The name and address of the airport;

(B) The name of the last registered owner of the aircraft and all persons having a legal or equitable interest in the aircraft;

(C) The fees and charges incurred by the aircraft for the use of the airport and the costs for the transportation, storage, and removal of the aircraft; and

(D) A description of the aircraft sufficient for identification.

(2) The claim of lien shall be signed and sworn to or affirmed by the airport authority's director or the director's designee.

(3) The claim of lien shall be served on the last registered owner of the aircraft and all persons having an equitable or legal interest in the aircraft. The claim of lien shall be so served before recordation.

(4) The claim of lien shall be recorded with the register of the county where the airport is located. The recording of the claim of lien shall be constructive notice to all persons of the contents and effect of such claim. The lien shall attach at the at the time of recordation and shall take priority as of that time.

(k)(1) If the aircraft is sold pursuant to this section, the airport authority shall satisfy the airport authority's lien, plus the reasonable expenses of notice, advertisement, and sale, from the proceeds of the sale.

(2) The balance of the proceeds of the sale, if any, shall be held by the airport authority, and delivered on demand to the owner of the aircraft.

(3) If no person claims the balance within 12 months of the date of sale, the airport authority shall retain the funds and use the funds for airport operations.

(l) Any person acquiring a legal interest in an aircraft pursuant to this section shall be the lawful owner of the aircraft and all other legal or equitable interests in that aircraft shall be divested: *Provided*, That the holder of any legal or equitable interest was notified of the intended disposal of the aircraft as required by this section. The airport authority may issue documents of disposition to the purchaser or recipient of an aircraft disposed of pursuant to this section.

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§8-29-9. Rules and regulations to control vehicular and pedestrian traffic within quarter mile of airport; violation of rule and regulation a misdemeanor; penalty.

(a) The airport authority or the county court of the county in which any such airport or the major portion thereof is located is hereby empowered and authorized, upon request of the authority, may adopt and promulgate rules and regulations to:

(1) Control the movement and disposition of vehicular and pedestrian traffic within 1/4 mile of any building or installation of any such airport;

(2) Regulate and control vehicular parking within such areas by the installation of parking meters or by other methods; and

(3) Impose reasonable charges for the use of the parking space so metered or otherwise allocated, so as to provide maximum opportunity for the public use thereof.

(b) Violation of any such rule and regulation shall constitute a misdemeanor and, the offender, upon conviction in the manner provided by law, may be fined not less than $10 nor more than $30 for each such violation.

(c) Magistrates shall have concurrent jurisdiction with the circuit courts and with statutory courts of record having criminal jurisdiction for the trial of offenses under this section.

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PART IV. INDEBTEDNESS; FUNDS; EMINENT DOMAIN; EXEMPTION FROM TAXATION; DISPOSITION OF SURPLUSES.

§8-29-10. Indebtedness of authorities.

Each authority may incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary and advisable in connection with carrying out its purposes as hereinbefore mentioned.

No indebtedness or obligation incurred by an authority shall give any right against any member of the governing body of any of said municipalities, or the county court (or other similar body in the case of an out-of-state participating county) of any of said counties, or any member of the board of the authority. No indebtedness of any nature of an authority shall constitute an indebtedness of any municipality or county or the governing body of any such municipality or the county court (or other similar body in the case of an out-of-state participating county) of any such county, or be a charge against any property of any municipality or county. The rights of creditors of an authority shall be solely against the authority as a corporate body and shall be satisfied only out of property held by it in its corporate capacity.

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§8-29-11. Agreements in connection with obtaining funds.

Each authority may, in connection with obtaining moneys or property for its purposes, enter into any agreement with any person, including the federal government, or any department, agency or subdivision thereof, containing such provisions, covenants, terms and conditions as the authority may deem advisable.

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§8-29-12. Authorities to have right of eminent domain.

Whenever it shall be deemed necessary by an authority, in connection with the exercise of its powers herein conferred, to take or acquire any lands, structures or buildings or other rights, either in fee or as easements, for the purposes herein set forth, the authority may purchase the same directly or through its agents from the owner or owners thereof, or failing to agree with the owner or owners thereof, the authority may exercise the power of eminent domain in the manner provided for condemnation proceedings in Chapter 54 of this code, and such purposes are hereby declared to be public uses for which private property may be taken or damaged.

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§8-29-13. Property, bonds and obligations of authorities exempt from taxation.

Each authority shall be exempt from the payment of any taxes or fees to the state or any subdivisions thereof or any municipalities or to any officer or employee of the state or of any subdivision thereof or of any municipality.

The property of each authority shall be exempt from all municipal and county taxes. Bonds, notes, debentures and other evidences of indebtedness of the authority are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest thereon, shall be exempt from taxation.

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§8-29-14. Authorities may lease facilities.

Each authority may lease its airport and all or any part of the appurtenances and facilities therewith to any available lessee, subject to all Constitutional and statutory limitations with respect thereto, at such rental and upon such terms and conditions as the authority deems proper. The leases shall be subordinate to any mortgage or deed of trust executed by the authority. An authority may lease land, the original taking of which was necessary for airport purposes, for economic development purposes compatible with, but not necessarily associated with, airport activities.

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§8-29-15. Disposition of surplus of authorities.

If an authority should realize a surplus, whether from operating the airport or leasing it for operation, over and above the amount required for the equipping, improvement, maintenance and operation of the airport and for meeting all required payments on its obligations, it shall set aside such reserve for future equipping, improvements, maintenance, operations and contingencies as it shall deem proper and shall then apply the residue of such surplus, if any, to the payment of any recognized and established obligations not then due, and after all such recognized and established obligations have been paid off and discharged in full, the authority shall, at the end of each fiscal year, set aside the reserve for future equipping, improvements, maintenance, operations and contingencies, as aforesaid, and then pay the residue of such surplus, if any, to the municipalities and counties in direct proportion to their contribution of moneys and property.

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§8-29-16. Contributions to authorities; funds and accounts of authorities.

Contributions of moneys may be made to authorities from time to time by the participating municipalities and counties, and persons that shall desire to do so. All such moneys and all other moneys received by an authority shall be deposited in such banking institution or banking institutions as the authority may direct and shall be withdrawn therefrom in such manner as the authority may direct. Each authority shall keep strict account of all of its receipts and expenditures and shall each quarter make a quarterly report thereon to the municipalities and counties which have made contributions of moneys or property, and such report shall contain an itemized account of its receipts and disbursements during the preceding quarter. Such report shall be made within sixty days after the termination of the quarter. Within sixty days after the end of each fiscal year, each authority shall make an annual report containing a summary of its receipts and disbursements for the preceding fiscal year, and publish the same as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty- nine of this code, and the publication area for such publication shall be the municipalities and counties, as provided in section one of this article. The books, records and accounts of each authority shall be subject to audit and examination by the office of the State Tax Commissioner and by any other proper public official or body in the manner provided by law.

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§8-29-17. Participation.

(a) The municipalities and counties or any one or more of them participating therein, jointly or severally, may appoint members of the said authorities and to contribute to the cost of acquiring, establishing, constructing, equipping, improving, and maintaining and operating the said airports and appurtenant facilities.

(b) Any of the municipalities or counties as provided in section one of this article may convey or transfer to the authorities property of any kind heretofore acquired by the municipalities or counties for airport purposes.

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PART V. DISSOLUTION OF AUTHORITIES; WORKMEN'S COMPENSATION; CONSTRUCTION.

§8-29-18. Dissolution of authority; disposition of assets after payment of debts.

In the event full and adequate provision is made for the payment of all of the debts of an authority, the participating municipalities or counties or any combination thereof which have contributed at least sixty percent of the total value of all moneys and property (the value of which property is determined as specified in section four of this article) contributed to the authority by the participating municipalities and counties may by resolution provide for the dissolution of the authority and for (1) the conveyance of the real and tangible personal property contributed to it to those participating municipalities and counties which contributed the same, (2) equitable distribution among the contributing municipalities and counties of any real and tangible personal property purchased or condemned by the authority or of the proceeds of sale thereof, or the fair value thereof, and (3) the equitable distribution of all moneys on hand to the participating municipalities and counties in direct proportion to the contribution of moneys by them.

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§8-29-19. Employees to be covered by workmen's compensation.

All eligible employees of any authority shall be deemed to be within the workmen's compensation statute of this state and premiums on their compensation shall be paid by the authority as required by law.

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§8-29-20. Liberal construction of article.

The purposes of this article are to provide for the acquisition, establishment, construction, equipping, improvement, financing, maintenance, and operation of airports in a prudent and economical manner, and this article shall be liberally construed as giving to any authority created and established hereunder full and complete power reasonably required to give effect to the purposes hereof. The provisions of this article are in addition to and not in derogation of any power granted to or vested in municipalities and county courts under any Constitutional, statutory, or charter provisions which may now or hereafter be in effect.

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