

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945

ENROLLED

Committee Substitute for

SENATE BILL No. 170

Originating in the Senate Committee on the Judiciary

(By Mr. _____)

PASSED March 9, 1945

In Effect from Passage

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COMMITTEE SUBSTITUTE
FOR
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(Originating in the Senate Committee on the Judiciary.)

[Passed March 9, 1945; in effect from passage.]

AN ACT to amend and reenact section one, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, and further to amend said article by adding thereto two new sections to be designated section five-a and section five-b, for the purpose of facilitating the acquisition, construction, management and use of airports and for the advancement of aeronautics; defining aeronautical words, terms and phrases; and authorizing the

state and its political subdivisions to lease airports, grounds and portions thereof.

Be it enacted by the Legislature of West Virginia:

That section one, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted and that said article be further amended by adding thereto two new sections to be designated section five-a and section five-b, for the purpose of facilitating the acquisition, construction, management and use of airports and for the advancement of aeronautics, all to read as follows:

Section 1. *Definitions.*—As used in the statutes of West

2 Virginia, unless the context otherwise requires:

3 (a) “Aeronautics” means transportation by aircraft;
4 the operation, construction, repair, or maintenance of air-
5 craft, aircraft power plants and accessories, including the
6 repair, packing, and maintenance of parachutes; the de-
7 sign, establishment, construction, extension, operation,
8 improvement, repair, or maintenance of airports, re-
9 stricted landing areas, or other air navigation facilities,
10 and air instruction.

11 (b) “Aircraft” means any contrivance now known, or

12 hereafter invented, used or designed for navigation of
13 or flight in the air.

14 (c) "Public aircraft" means an aircraft used exclusively
15 in the service of any government of any state, territory,
16 or possession of the United States, or the District of Col-
17 umbia, but not including any government-owned aircraft
18 engaged in carrying persons or property for commercial
19 purposes.

20 (d) "Civil aircraft" means any aircraft other than a
21 public aircraft.

22 (e) "Airport" means any area of land or water desig-
23 nated and set aside for the landing and taking off of air-
24 craft and utilized or to be utilized, in the interest of the
25 public, for such purposes.

26 (f) "Board" means the West Virginia Board of Aero-
27 nautics; "State" or "this state" means the state of West
28 Virginia; and "director" means the director of aeronautics
29 of this state.

30 (g) "Restricted Area" means any area of land, water,
31 or both, which is used or is made available for the landing
32 and take-off of aircraft, the use of which shall, except in

33 case of emergency, be only as provided from time to time
34 by the board.

35 (h) "Air navigation facility" means any facility other
36 than the one owned or controlled by the federal govern-
37 ment, used in, available for use in, or designed for use in
38 aid of air navigation, including airports, restricted land-
39 ing areas, and any structures, mechanisms, lights, beacons,
40 marks, communicating systems, or other instrumentalities
41 or devices used or useful as an aid, or constituting an
42 advantage or convenience, to the safe taking-off, naviga-
43 tion, and landing of aircraft, or the safe and efficient
44 operation of maintenance of an airport or restricted land-
45 ing area, and any combination of any or all of such
46 facilities.

47 (i) "Air navigation" or "avigation" means the opera-
48 tion or navigation of aircraft in the air space over this
48 state, or upon any airport or restricted landing area within
50 this state.

51 (j) "Operation of aircraft" or "operate aircraft" means
52 the use of aircraft for the purpose of air navigation, and
53 includes the navigation or piloting of aircraft. Any per-

54 son who causes or authorizes the operation of aircraft,
55 whether with or without the right of legal control (in
56 the capacity of owner, lessee, or otherwise) of the air-
57 craft, shall be deemed to be engaged in the operation of
58 aircraft within the meaning of the statutes of this state.

59 (k) "Airman" means any individual who engages, as
60 the person in command, or as pilot, mechanic, or member
61 of the crew, in the navigation of aircraft while under
62 way and (excepting individuals employed outside the
63 United States, any individual employed by a manu-
64 facturer of aircraft, aircraft engines, propellers, or appli-
65 ances to perform duties as inspector or mechanic in con-
66 nection therewith, and any individual performing inspec-
67 tion or mechanical duties in connection with aircraft
68 owned or operated by him) any individual who is directly
69 in charge of the inspection, maintenance, overhauling, or
70 repair of aircraft engines, propellers, or appliances; and
71 any individual who serves in the capacity of aircraft
72 dispatcher or air-traffic control-tower operator.

73 (l) "Air instruction" means the imparting of aero-

74 nautical information by any aeronautics instructor or in
75 or by any air school or flying club.

76 (m) "Air School" means any persons engaged in giving,
77 or offering to give, instruction, in aeronautics, either in
78 flying or ground subjects, or both, for or without hire or
79 reward, and advertising, representing, or holding himself
80 out as giving or offering to give such instruction. It does
81 not include any public school or university of this state,
82 or any institution of higher learning duly accredited and
83 approved for carrying on collegiate work.

84 (n) "Aeronautics instructor" means any individual en-
85 gaged in giving instruction, or offering to give instruction,
86 in aeronautics, either in flying or ground subjects, or both,
87 for hire or reward, without advertising such occupation,
88 without calling his facilities an "air school" or anything
89 equivalent thereto, and without employing or using other
90 instructors. It does not include any instructor in any
91 public school or university of this state, or any institution
92 of higher learning duly accredited and approved for carry-
93 ing on collegiate work, while engaged in his duties as
94 such instructor.

95 (o) "Navigable air space" means air space above the
96 minimum altitudes of flight prescribed by the laws of this
97 state or by regulations of the board consistent therewith.

98 (p) "Political subdivision" means any municipality,
99 city, town, village or county.

100 (q) "Airport protection privileges" means easements
101 through, or other interests in, air space over land or
102 water, interests in airport hazards outside the boundaries
103 of airports or restricted landing areas, and other pro-
104 tection privileges, the acquisition or control of which is
105 necessary to insure safe approaches to the landing areas
106 of airport and restricted landing areas and the safe and
107 efficient operation thereof.

108 (r) "Airport hazard" means any structure, object of
109 natural growth, or use of land, which obstructs the air
110 space required for the flight of aircraft in landing or tak-
111 ing off at any airport or restricted landing area or is other-
112 wise hazardous to such landing or taking off.

113 (s) "Airport hazard area" means any area of land or
114 water upon which an airport hazard might be established
115 if not prevented as provided in this article.

116 (t) "Structure" means any object constructed or in-
117 stalled by men, including, but without limitation, build-
118 ings, towers, smokestacks, and overhead transmission
119 lines.

120 (u) "Tree" means any object of natural growth.

121 (v) "Person" means any individual, firm, co-partner-
122 ship, corporation, company, association, joint stock asso-
123 ciation, or body politic, and includes any trustee, receiver,
124 assignee, or other similar representative thereof.

125 (w) The single shall include the plural and the plural
126 the singular.

Sec. 5-a. *Federal Aid*—(a) The board is authorized to
2 cooperate with the government of the United States, and
3 any agency or department thereof, in the acquisition,
4 construction, improvement, maintenance and operation
5 of airports and other air navigation facilities in this state,
6 and is authorized to accept federal aid either outright or
7 by way of matching the same in whole or in part as may
8 be required, and to comply with the provisions of the
9 laws of the United States and any regulations made there-

10 under for the expenditure of federal moneys upon such
11 airports and other navigation facilities.

12 (b) The Board is authorized to accept, receive, and
13 receipt for federal moneys and other moneys, either pub-
14 lic or private, for and in behalf of this state, or any
15 county or municipality thereof, for the acquisition, con-
16 struction, improvement, maintenance, and operation of
17 airports and other air navigation facilities, whether such
18 work is to be done by the state or by such county or
19 municipality, or jointly, aided by grants of aid from the
20 United States, upon such terms and conditions as are or
21 may be prescribed by the laws of the United States and
22 any rules or regulations made thereunder, and it is hereby
23 designated as the agency of the state to, and is au-
24 thorized to and may act as agent of any county or munici-
25 pality of this state upon the request of such county or
26 municipality, in accepting, receiving and receipting for
27 such moneys in its behalf for airports or other air navi-
28 gation facility purposes, and in contracting for the ac-
29 quisition, construction, improvement, maintenance, or
30 operation of airports or other air navigation facilities,

31 financed either in whole or in part by federal moneys;
32 and the governing body of any such county or municipi-
33 pality is authorized to and may, and the state hereby does
34 designate the board as its agent for such purposes and to
35 enter into an agreement with it prescribing the terms and
36 conditions of such agency in accordance with federal laws,
37 rules and regulations and with this act. Such moneys as
38 are paid over by the United States government shall be
39 retained by the state or paid over to said counties or
40 municipalities under such terms and conditions as may be
41 imposed by the United States government in making such
42 grants.

43 (c) All contracts for the acquisition, construction, im-
44 provement, maintenance, and operation of airports, or
45 other air navigation facilities made by the board, either
46 as the agent of this state or as the agent of any county or
47 municipality, shall be made pursuant to the laws of this
48 state governing the making of like contracts: *Provided,*
49 *however,* That where the acquisition, construction, im-
50 provements, maintenance, and operation of any airport,
51 landing strip, or other air navigation facility is financed

52 wholly or partially with federal moneys, the board, as
53 agent of the state, a county, or of any municipality there-
54 of, may let contracts in the manner prescribed by the
55 federal authorities, acting under the laws of the United
56 States, and any rules or regulations made thereunder, not-
57 withstanding any other state law to the contrary.

58 (d) All moneys accepted for disbursement by the board
59 pursuant to this section shall be deposited in the state
60 treasury, and, unless otherwise prescribed by the authority
61 from which the money is received, kept in separate funds,
62 designated according to the purposes for which the moneys
63 were made available, and held by the state in trust for
64 such purposes. All such moneys are hereby appropriated
65 for the purposes for which the same were made available,
66 to be expended in accordance with federal laws and regu-
67 lations and with this act. The board is authorized, whether
68 acting for this state or as the agent of any county or mu-
69 nicipality, or when requested by the United States govern-
70 ment or any agency or department thereof, to disburse
71 such moneys for the designated purposes, but this shall not
72 preclude any other authorized method of disbursement.

73 (e) The state and any county, incorporated city, town
74 or village thereof is authorized to cooperate with the gov-
75 ernment of the United States, and any agency or depart-
76 ment thereof, in the acquisition, construction, improve-
77 ment, maintenance and operation of airports and other
78 air navigation facilities in this state, and authorized to
79 accept federal aid, either by way of outright grant or by
80 matching the same in whole or in part as may be required,
81 and to comply with the provisions of the laws of the
82 United States and any regulations made thereunder for
83 the expenditure of federal moneys upon such airports
84 and other navigation facilities.

Sec. 5-b. *The State and Political Subdivisions Empow-
2 ered to Lease Airports, Landing Fields and Grounds.*—The
3 state, acting through the board, or any county, incorpor-
4 ated city, town or village owning, either severally or
5 jointly with other like governmental units, an airport
6 or landing field and any grounds used or useful in con-
7 nection therewith may severally or jointly lease the same,
8 for use as such airport or landing field and for any other
9 purposes incidental to and not inconsistent therewith, for

10 a term not exceeding thirty years: *Provided, however,*
11 That no lease shall be executed by such owner or owners
12 of any such airport, landing field or grounds unless and
13 until such owner or owners shall have given notice by
14 publication once a week for two successive weeks in two
15 newspapers of opposite politics and of general circulation
16 in the territory of the governmental unit or units affected,
17 and by publication once a week for two successive weeks
18 in such other journal or magazine, or journals or maga-
19 zines, as such owner or owners may deem advisable, of
20 its or their intent to lease said airport, landing field or
21 grounds, which said notice shall accurately describe what
22 is proposed to be leased, the purpose or purposes for which
23 it may be used and the terms of said lease, and shall state
24 the time and place for the public opening of proposals
25 for such lease, and shall reserve the right to reject any
26 and all proposals. Nothing herein contained, however,
27 shall prevent such owner or owners of such airport,
28 landing field or grounds from granting or renting landing
29 rights for airplanes, hangar space, gasoline storage or
30 handling facilities ticket or general office space, or any

31 other facilities or rights in connection with such airport,
32 landing field or grounds, covering or affecting less than
33 the whole thereof, without notice and upon such terms
34 as such owner or owners may deem advisable. All in-
35 come received by a county court, or incorporated city,
36 town or village under the terms of any such lease or
37 grant shall be paid to the state sinking fund commis-
38 sion to retire the bonded indebtedness, if any, created for
39 the acquisition, building and construction of such air-
40 port, landing field or grounds. And if there be no such
41 outstanding bonded indebtedness, then such income to be
42 paid in to the general fund of such county, incorporated
43 city, town or village.

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

Charles C Morris
Chairman Senate Committee

J. A. DeGruyter Jr.
Chairman House Committee

Originated in the Senate Committee on the Judiciary

Takes effect from passage

Thomas H. Nease
Clerk of the Senate

Phillip
Clerk of the House of Delegates

Arnold W.ickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within Approved this the 16
day of March, 1945.

Clarence Meadows
Governor.

Filed in the office of the Secretary of State
of West Virginia **MAR 19 1945**
Wm. S. O'BRIEN,
Secretary of State

