WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1947

ENROLLED

SENATE BILL No. 121

(By Mr. Herdity)

PASSED March 4, 1947

In Effect Ninety days from Passage
ENROLLED

Senate Bill No. 121
(By Mr. Hardesty)

[Passed March 4, 1917; in effect ninety days from passage.]

AN ACT to amend and reenact article eleven, chapter eight, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections nine to fourteen inclusive and by amending sections one to eight inclusive, all relating to the establishment, operation, regulations, construction, leasing, joint maintenance, and abandonment of, acquisition of sites for, collecting of fees from, and laying of levies and appropriations of funds for, airports by counties and municipalities; and providing for the construction, operation, maintenance of, and acquisition of sites for, airports in this state by municipalities of adjoining states.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be
amended by repealing sections nine to fourteen inclusive and
to amend and reenact sections one to eight inclusive, to read as
follows:

Section 1. Definitions. When used in this article, all
words, terms, and phrases shall be defined as provided in
section one, article two-a, chapter twenty-nine of the code
of West Virginia, as amended.

Sec. 2. Establishment and Operation of Airports by
Counties and Municipalities. Any county, city, town, or
village may establish, lease, construct, equip, maintain
and operate for such county, city, town or village, an air-
port for the use of aircraft, and may acquire or lease for
such purpose real property within or without such county,
or within or outside the corporate limits of such city, town
or village, or may set apart and use for such purpose real
property owned by the county, city, town or village, which
is not needed for any other public use, however such real
property was acquired. The county court now owning or
leasing or hereafter acquiring or leasing any real prop-
erty without the limits of its county for the purpose of
constructing and operating an airport, shall have the same
and all jurisdiction over such property, its maintenance
and operation, as it has with respect to real property
owned or leased and operated by it for airport purposes
within the limits of its own county.

Sec. 3. *Acquisition of Site for Airport; Payment There-
for.* Real property necessary for such airport may be ac-
cquired by gift, or by purchase if such county, city,
town or village is able to agree with the owners of
such real property on the terms thereof, and otherwise
by condemnation, in the manner provided by law under
which such county, city, town or village is authorized
to acquire real property for public use. The purchase
price or award for any property acquired for airport
purposes may be paid for by appropriation of moneys
available therefor or wholly or partly from the proceeds
of sale of bonds of such county, city, town or village,
as the county court or local legislative body shall de-
cide, subject, however, to the general provisions of
law for the issuance and sale of bonds of counties and
municipalities for public purposes generally.

Sec. 4. *Construction, Maintenance and Operation of*
Airport; Regulations and Fees. The county court or local legislative body of such county, city, town or village may direct or employ or vest jurisdiction in any appropriate officer, board or body of such county, city, town or village to locate, construct, equip, improve, maintain and operate such airport for such county, city, town or village, but the site so located and the construction, equipment, improvement, maintenance and operation of such airport shall be subject to the approval of such county court or local legislative body, as the case may be. The expense of the construction, improvement, equipment, maintenance and operation shall be a county, city, town or village charge, as the case may be.

The county court or local legislative body of the city, town, or village may adopt regulations and establish fees or charges for the use of such airport, or may authorize the officer, board or body of such county, city, town or village having jurisdiction to adopt such regulations and establish such fees and charges, subject, however, to the approval of such county court or local legislative body before they shall take effect.
Sec. 5. Airports Maintained Jointly; Abandonment Thereof; Suits Concerning Same. One or more counties, cities, towns or villages may join with another or other counties, cities, towns and/or villages for the purpose of acquiring, leasing, equipping, constructing, maintaining and operating an airport. Any such airport may be established at such point as the legislative bodies in the county, or counties, city or cities, town or towns, village or villages joining therein may agree upon, and such county or counties, city or cities, town or towns, village or villages may raise, by levy or otherwise as provided in this article, funds for the purpose of acquiring, leasing, constructing, equipping, maintaining and operating any such airport and the counties and municipalities shall agree upon the proportionate part of the cost and expense of such airport to be paid by each county, city, town and/or village joining therein. The provisions of sections two, three, four, five, six, and seven of this article, shall apply to any joint airport established under the provisions of this section.

In case any airport established by the joint action of
any two or more counties, cities, towns and/or villages acting together under this section is abandoned, such airport owned by such counties, cities, towns and/or villages may be sold with the approval of the legislative authorities of the counties and municipalities which had joined in its purchase. The proceeds of such sale shall be distributed to the counties and municipalities in the proportion in which such counties and municipalities had contributed to the acquisition, maintenance and operation of such airport. In case of a failure of the counties and municipalities to agree upon the disposition of such airport and the equipment thereon or connected therewith or in its operation or maintenance, any one or more of the counties and municipalities interested therein may bring a suit in the circuit court of the county in which such airport or the larger part thereof is located, and upon a trial of the cause, held in the manner provided by law for other suits in equity, the court shall make such decree or decrees with reference to the disposition of the property and distribution of the proceeds or other moneys involved as to the court may seem to the best interests of
all the parties involved, and an appeal to the supreme
court of appeals shall lie as in other equity suits.

Sec. 6. The State and Political Subdivisions Empowered
to Lease Airports and Grounds. The state, acting through
the Aeronautics Commission, or any county, incorporated
city, town or village owning, either severally or jointly
with other like governmental units, an airport and any
grounds used or useful in connection therewith may sev-
erally or jointly lease the same, for use as such airport
and for any other purposes incidental to and not incon-
sistent therewith, for a term not exceeding thirty years:
Provided, however, That no lease shall be executed by
such owner or owners of any such airport or grounds un-
less and until such owner or owners shall have given no-
tice by publication once a week for two successive weeks
in two newspapers of opposite politics and of general cir-
culation in the territory of the governmental unit or units
affected, and by publication once a week for two succes-
sive weeks in such other journal or magazine, or journals
or magazines, as such owner or owners may deem advis-
able, of its or their intent to lease said airport or grounds,
which said notice shall accurately describe what is proposed to be leased, the purpose or purposes for which it may be used and the terms of said lease, and shall state the time and place for the public opening of proposals for such lease, and shall reserve the right to reject any and all proposals. Nothing herein contained, however, shall prevent such owner or owners of such airport or grounds from granting or renting landing rights for airplanes, hangar space, gasoline storage, or handling facilities, ticket or general office space, or any other facilities or rights in connection with such airport or grounds, covering or affecting less than the whole thereof, without notice and upon such terms as such owner or owners may deem advisable. All income received by a county court, or incorporated city, town or village under the terms of any such lease or grant shall be paid to the state sinking fund commission to retire the bonded indebtedness, if any, created for the acquisition, building and construction of such airport or grounds. And if there be no such outstanding bonded indebtedness, then such income to be
Sec. 7. **Levy for Acquisition of Airport; Funds for Its Maintenance and Operation.** The local authorities of a county, city, town or village to which this article is applicable, having power to appropriate money therein, may lay a levy, not to exceed five cents on each one hundred dollars of valuation, for a period not exceeding three years, and appropriate therefrom funds for the purpose of acquiring an airport. Funds necessary for providing maintenance or operating expenses for such airport may be appropriated out of the general funds of the county or municipality: Provided, however, That nothing contained herein shall in any way affect any rights, powers, and privileges of any county court, board of commissioners, or municipalities heretofore authorized by special act of the Legislature of the state of West Virginia, providing for the laying of levies or the expenditure of funds for constructing, maintaining or operating an airport.

Sec. 8. **Construction, Maintenance and Operation of**
Airports by Municipalities of an Adjoining State; Acquisition of Sites Therefor; Rights, Powers and Privileges Relating Thereto. Notwithstanding any other provisions of law, a municipal corporation, organized and existing under the laws of an adjoining state, the corporate limits thereof being not more than ten miles distant from the boundaries of this state, may establish, lease, construct, equip, maintain and operate for such municipal corporation of an adjoining state an airport exclusively for a non-profit public use, and may acquire or lease for such purpose real property situate within this state at a distance not greater than ten miles from the corporate limits of such municipal corporation of an adjoining state; and such municipal corporation shall have the right to acquire real property necessary for such airport by gift or by purchase, and otherwise by condemnation, and the use of real property under the provisions hereof shall be deemed to be a public use for which private property may be taken or damaged, for just compensation. All property, real and personal, acquired, held and used in this state pursuant to the provisions of this section shall be public
property and therefore exempt from taxation in the man-
ner provided by section nine, article three, chapter eleven,
of the Code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate

Takes effect Ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within Approved this the 7th day of March, 1947.

[Signature]
Governor.

Filed in the Office of the Secretary of State of West Virginia, MAR 8, 1947.