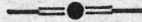


WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

SENATE BILL No. 121

(By Mr. Hardesty)



PASSED March 4, 1947

In Effect Ninety days from Passage



121

ENROLLED
Senate Bill No. 121
(By MR. HARDESTY)

[Passed March 4, 1947; 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
2 words, terms, and phrases shall be defined as provided in
3 section one, article two-a, chapter twenty-nine of the code
4 of West Virginia, as amended.

Sec. 2. *Establishment and Operation of Airports by
2 Counties and Municipalities.* Any county, city, town, or
3 village may establish, lease, construct, equip, maintain
4 and operate for such county, city, town or village, an air-
5 port for the use of aircraft, and may acquire or lease for
6 such purpose real property within or without such county,
7 or within or outside the corporate limits of such city, town
8 or village, or may set apart and use for such purpose real
9 property owned by the county, city, town or village, which
10 is not needed for any other public use, however such real
11 property was acquired. The county court now owning or
12 leasing or hereafter acquiring or leasing any real prop-
13 erty without the limits of its county for the purpose of
14 constructing and operating an airport, shall have the same

15 and all jurisdiction over such property, its maintenance
16 and operation, as it has with respect to real property
17 owned or leased and operated by it for airport purposes
18 within the limits of its own county.

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

Sec. 4. *Construction, Maintenance and Operation of*

2 *Airport; Regulations and Fees.* The county court or local
3 legislative body of such county, city, town or village
4 may direct or employ or vest jurisdiction in any appro-
5 priate officer, board or body of such county, city, town
6 or village to locate, construct, equip, improve, maintain
7 and operate such airport for such county, city, town or
8 village, but the site so located and the construction, equip-
9 ment, improvement, maintenance and operation of such
10 airport shall be subject to the approval of such county
11 court or local legislative body, as the case may be. The
12 expense of the construction, improvement, equipment,
13 maintenance and operation shall be a county, city, town
14 or village charge, as the case may be.

15 The county court or local legislative body of the city,
16 town, or village may adopt regulations and establish fees
17 or charges for the use of such airport, or may authorize
18 the officer, board or body of such county, city, town or vil-
19 lage having jurisdiction to adopt such regulations and
20 establish such fees and charges, subject, however, to the
21 approval of such county court or local legislative body
22 before they shall take effect.

Sec. 5. *Airports Maintained Jointly; Abandonment*

2 *Thereof; Suits Concerning Same.* One or more counties,
3 cities, towns or villages may join with another or other
4 counties, cities, towns and/or villages for the purpose of
5 acquiring, leasing, equipping, constructing, maintaining
6 and operating an airport. Any such airport may be
7 established at such point as the legislative bodies in
8 the county, or counties, city or cities, town or towns,
9 village or villages joining therein may agree upon,
10 and such county or counties, city or cities, town or
11 towns, village or villages may raise, by levy or other-
12 wise as provided in this article, funds for the purpose
13 of acquiring, leasing, constructing, equipping, main-
14 taining and operating any such airport and the counties
15 and municipalities shall agree upon the proportionate
16 part of the cost and expense of such airport to be
17 paid by each county, city, town and/or village joining
18 therein. The provisions of sections two, three, four,
19 five, six, and seven of this article, shall apply to any joint
20 airport established under the provisions of this section.
21 In case any airport established by the joint action of

22 any two or more counties, cities, towns and/or villages
23 acting together under this section is abandoned, such air-
24 port owned by such counties, cities, towns and/or villages
25 may be sold with the approval of the legislative authori-
26 ties of the counties and municipalities which had joined
27 in its purchase. The proceeds of such sale shall be dis-
28 tributed to the counties and municipalities in the pro-
29 portion in which such counties and municipalities had
30 contributed to the acquisition, maintenance and opera-
31 tion of such airport. In case of a failure of the counties
32 and municipalities to agree upon the disposition of such
33 airport and the equipment thereon or connected there-
34 with or in its operation or maintenance, any one or more
35 of the counties and municipalities interested therein may
36 bring a suit in the circuit court of the county in which
37 such airport or the larger part thereof is located, and upon
38 a trial of the cause, held in the manner provided by law
39 for other suits in equity, the court shall make such decree
40 or decrees with reference to the disposition of the prop-
41 erty and distribution of the proceeds or other moneys in-
42 volved as to the court may seem to the best interests of

43 all the parties involved, and an appeal to the supreme
44 court of appeals shall lie as in other equity suits.

Sec. 6. *The State and Political Subdivisions Empowered*
2 *to Lease Airports and Grounds.* The state, acting through
3 the Aeronautics Commission, or any county, incorporated
4 city, town or village owning, either severally or jointly
5 with other like governmental units, an airport and any
6 grounds used or useful in connection therewith may sev-
7 erally or jointly lease the same, for use as such airport
8 and for any other purposes incidental to and not incon-
9 sistent therewith, for a term not exceeding thirty years:
10 *Provided, however,* That no lease shall be executed by
11 such owner or owners of any such airport or grounds un-
12 less and until such owner or owners shall have given no-
13 tice by publication once a week for two successive weeks
14 in two newspapers of opposite politics and of general cir-
15 culation in the territory of the governmental unit or units
16 affected, and by publication once a week for two succes-
17 sive weeks in such other journal or magazine, or journals
18 or magazines, as such owner or owners may deem advis-
19 able, of its or their intent to lease said airport or grounds,

20 which said notice shall accurately describe what is pro-
21 posed to be leased, the purpose or purposes for which it
22 may be used and the terms of said lease, and shall state
23 the time and place for the public opening of proposals
24 for such lease, and shall reserve the right to reject any
25 and all proposals. Nothing herein contained, however,
26 shall prevent such owner or owners of such airport or
27 grounds from granting or renting landing rights for air-
28 planes, hangar space, gasoline storage, or handling facil-
29 ities, ticket or general office space, or any other facilities
30 or rights in connection with such airport or grounds, cov-
31 ering or affecting less than the whole thereof, without
32 notice and upon such terms as such owner or owners
33 may deem advisable. All income received by a county
34 court, or incorporated city, town or village under the terms
35 of any such lease or grant shall be paid to the state sink-
36 ing fund commission to retire the bonded indebtedness, if
37 any, created for the acquisition, building and construc-
38 tion of such airport or grounds. And if there be no such
39 outstanding bonded indebtedness, then such income to be

40 paid in to the general fund of such county, incorporated
41 city, town or village.

Sec. 7. *Levy for Acquisition of Airport; Funds for Its*
2 *Maintenance and Operation.* The local authorities of a
3 county, city, town or village to which this article is ap-
4 plicable, having power to appropriate money therein,
5 may lay a levy, not to exceed five cents on each one hun-
6 dred dollars of valuation, for a period not exceeding three
7 years, and appropriate therefrom funds for the purpose
8 of acquiring an airport. Funds necessary for providing
9 maintenance or operating expenses for such airport may
10 be appropriated out of the general funds of the county or
11 municipality: *Provided, however,* That nothing contained
12 herein shall in any way affect any rights, powers, and
13 privileges of any county court, board of commissioners,
14 or municipalities heretofore authorized by special act of
15 the Legislature of the state of West Virginia, providing
16 for the laying of levies or the expenditure of funds for
17 constructing, maintaining or operating an airport.

Sec. 8. *Construction, Maintenance and Operation of*

2 *Airports by Municipalities of an Adjoining State; Acquis-*
3 *ition of Sites Therefor; Rights, Powers and Privileges Re-*
4 *lating Thereto.* Notwithstanding any other provisions of
5 law, a municipal corporation, organized and existing un-
6 der the laws of an adjoining state, the corporate limits
7 thereof being not more than ten miles distant from the
8 boundaries of this state, may establish, lease, construct,
9 equip, maintain and operate for such municipal corpora-
10 tion of an adjoining state an airport exclusively for a
11 non-profit public use, and may acquire or lease for such
12 purpose real property situate within this state at a distance
13 not greater than ten miles from the corporate limits of
14 such municipal corporation of an adjoining state; and such
15 municipal corporation shall have the right to acquire real
16 property necessary for such airport by gift or by pur-
17 chase, and otherwise by condemnation, and the use of
18 real property under the provisions hereof shall be deemed
19 to be a public use for which private property may be
20 taken or damaged, for just compensation. All property,
21 real and personal, acquired, held and used in this state
22 pursuant to the provisions of this section shall be public

23 property and therefore exempt from taxation in the man-
24 ner provided by section nine, article three, chapter eleven,
25 of the Code.

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

Joseph L. McKee

Chairman Senate Committee

R. G. Matthews

Chairman House Committee

Originated in the Senate

Takes effect Ninety days from passage.

Howard Myers
Clerk of the Senate

J. R. [unclear]
Clerk of the House of Delegates

Donald M. Fickers
President of the Senate

John E. Amos
Speaker House of Delegates

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

Oliver M. [unclear]
Governor.



Filed in the Office of the Secretary of State of West Virginia

MAR 8 1947
WM. S. [unclear]
SECRETARY OF STATE