WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 394

(By Mr. Robertson and White)

PASSED Feb. 27 1959

In Effect From Passage

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STATE OF WEST VIRGINIA

JOHN B. KORTETT
SECRETARY OF STATE
ENROLLED

House Bill No. 394
(By Mr. Robertson and Mr. White)

[Passed February 27, 1959; in effect from passage.]

AN ACT authorizing the county court of Harrison county to create an airport authority and providing: for the membership and specifying the purposes of the authority; for the appointment and removal of members; for the acquisition by the authority of real estate and personal property; for the acquisition, construction, improvement, maintenance and operation of a public airport; for corporate existence of the authority; for the issuance of mortgage bonds, revenue bonds, other bonds, debentures, notes and securities, and giving security for the payment thereof; for the authority to exercise the power of eminent domain; for tax exemption for the property, funds and obligations of the authority; for acquisition by the authority from the county court of Harrison county of the present county airport and the improvement and operation thereof; for the
authority to lease the airport; for the county court of Harrison county to become the lessee of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court and others; for keeping the funds and accounts of the authority; for the disposition of any surplus funds; for covering the employees of the authority by workmen's compensation; and for dissolution of the authority.

Be it enacted by the Legislature of West Virginia:

Section 1. Benedum Airport Authority Authorized.—

The county court of Harrison county is hereby authorized to create and establish a public agency to be known as the “Benedum Airport Authority” for the purposes and in the manner hereinafter set forth.

Sec. 2. Purposes.—The authority is hereby authorized and empowered to acquire, equip, construct, improve, maintain and operate a public airport with all usual and convenient appurtenances and facilities in Harrison county, West Virginia, to serve as a public airport for the convenience and accommodation of the inhabitants of Harrison county and the public generally.
Sec. 3. Members of Authority.—The management and control of the Benedum Airport Authority, its property, operations, business and affairs, shall be lodged in a board of five persons who shall be known as the members of the authority and who shall be appointed for a term of five years each by the county court of Harrison county, except that, as to the first board appointed, the term of one member shall expire on the first day of March next ensuing, the term of another member shall expire one year thereafter, the term of another member shall expire two years thereafter, the term of another member shall expire three years thereafter, and the term of the remaining member shall expire four years thereafter. As a member's term expires, the county court of Harrison county shall appoint a member for a full term of five years. A member may be reappointed for such additional term or terms as the county court may deem proper. If a member resigns, is removed or for any reason his membership terminates during his term of office, a successor shall be appointed by the county court to fill out the remainder of his term. Members in office at the expira-
tion of their respective terms shall continue to serve until
their successors have been appointed and have qualified.
The county court of Harrison county may at any time
for good cause remove a member or members of the
board of the authority by an order duly entered of record
and may appoint a successor member or successor mem-
ers for any member or members so removed. If any
member objects to being so removed, he may, in writing,
demand a hearing, and the county court of Harrison
county shall promptly thereafter hold a public hearing
thereon. After such public hearing, the county court
shall determine whether the member shall be removed or
shall be permitted to continue in office.

Sec. 4. Qualification of Members of the Authority.—
All members of the board of the authority shall be citizens
of West Virginia, over thirty years of age, and residents
of Harrison county. No member of the board shall be
engaged in the aviation business as a major part of his
activities. Not more than three members of the authority
shall belong to the same political party. One member
of the board of the authority may also be a member of
the county court of Harrison county.

Sec. 5. Compensation of Members of the Authority.—
No member of the board of the authority shall receive
any compensation, whether in form of salary, per diem
allowances or otherwise, for or in connection with his
services as such member. Each member shall, however,
be entitled to reimbursement by the authority for any
necessary expenditures in connection with the perform­
ance of his general duties as such member.

Sec. 6. Authority to Be a Public Corporation.—The
authority when created, and the members thereof, shall
constitute and be a public corporation under the name of
Benedum Airport Authority, and as such shall have per­
petual succession, may contract and be contracted with,
sue and be sued, plead and be impleaded, and have and
use a common seal.

Sec. 7. Powers.—The Benedum Airport Authority is
hereby given power and authority as follows:

(1) To make and adopt all necessary by-laws, rules
and regulations 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, governmental department, firm or corporation, including both public and private corporations, and generally to do any and all things necessary or convenient for the purpose of acquiring, equipping, constructing, maintaining, improving, extending, financing and operating a public airport in Harrison county, West Virginia;

(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, and to accept and use bequests, devices, gifts and donations from any person, firm or corporation;

(6) To acquire lands and hold title thereto in its own name;

(7) To purchase, own, hold, sell and dispose of per-
sonal property and to sell, lease or otherwise dispose of any real estate 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 in connection with the issuance of mortgage bonds;

(9) To raise funds by the issuance and sale of revenue bonds in the manner provided by the applicable provisions of article four-a, chapter eight of the code of West Virginia, being chapter sixty-eight, acts of the Legislature, one thousand nine hundred thirty-five, as amended, it being hereby expressly provided that the Benedum Airport Authority is a "municipal authority" within the definition of that term as used in said article four-a, chapter eight of the code; and

(10) To expend its funds in the execution of the powers and authority herein given.

Sec. 8. Indebtedness of the Authority.—The authority
may incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with carrying out its purposes as hereinbefore mentioned. No statutory limitation with respect to the nature or amount of indebtedness which may be incurred by municipalities or other public bodies shall apply to indebtedness of the authority. No indebtedness of any nature of the authority shall constitute an indebtedness of the county court of Harrison county or a charge against any property of said county court. No obligation incurred by the authority shall give any right against any member of the county court of Harrison county or any member of the board of the authority. The rights of creditors of the 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.

Sec. 9. Agreements in Connection with Obtaining Funds.

The authority may, in connection with obtaining funds for its purposes, enter into any agreement with any person, firm or corporation, including the federal govern-
ment, or any agency or subdivision thereof, containing
such provisions, covenants, terms and conditions as the
authority may deem advisable.

Sec. 10. Authority to Have Right of Eminent Domain.—
Whenever is shall be deemed necessary by the authority
in connection with the exercise of its powers herein con-
ferred to take or acquire any lands, structures or build-
ings 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
ext 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
t eminent domain in the manner provided for condemna-
tion proceedings in chapter fifty-four of the code of West
Virginia, as heretofore and hereafter amended.

Sec. 11. Property, Bonds and Obligations of Authority
Exempt from Taxation.—The authority shall be exempt
from the payment of any taxes or fees to the state or any
subdivisions thereof or to any officer or employee of the
state or other subdivision thereof. The property of the
authority shall be exempt from all local and municipal
taxes. Bonds, notes, debentures and other evidence 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
taxes.

Sec. 12. County Court Authorized to Convey Present
Airport Properties and Facilities to the Authority.—The
county court of Harrison county is hereby authorized to
convey to the authority the present airport property
owned by the county court, together with all the ap-
purtenances and facilities therewith, such conveyance to
be without consideration or for such price and upon such
terms and conditions as the county court shall deem
proper.

Sec. 13. Authority May Lease Airport and Facilities to
County Court or Other Lessee.—The authority may lease
its airport and all the appurtenances and facilities there-
with to the county court of Harrison county or to any
other available lessee at such rental and upon such terms
and conditions as to the authority shall seem proper. If
the authority determines to lease the airport and its
appurtenances and facilities, it shall first offer the same
to the county court of Harrison county upon an annual
lease, and it shall not lease the airport and its appurten-
ances and facilities to any other lessee until the county
court of Harrison county has indicated that it does not
desire to lease said properties. The county court of Harri-
son county is hereby authorized to enter into a lease with
the authority for said airport and appurtenances and
facilities at such rental and upon such terms and condi-
tions as it shall deem proper, and the county court of
Harrison county is hereby authorized to levy taxes as
provided by law for the purpose of paying the rent for
said airport, appurtenances and facilities.

Sec. 14. Disposition of Surplus of Authority.—If the
authority should realize a surplus, whether from operat-
ing the airport or leasing it for operation, over and above
the amount required for the maintenance, improvement
and operation of the airport and for meeting all required
payments on its obligations, it shall set aside such reserve
for future operations, improvements 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 operations, improvements and contingencies, as aforesaid, and then pay the residue of such surplus, if any, to the county court of Harrison county, to be used by the county court of Harrison county for general county purposes.

Sec. 15. Contributions to Authority by County Court and Others—Funds and Accounts of the Authority.—Contributions may be made to the authority from time to time by the county court of Harrison county and by any persons, firms or corporations that shall desire so to do. All such funds and all other funds received by the authority shall be deposited in such bank or banks as the authority may direct and shall be withdrawn therefrom in such manner as the authority may direct. The authority shall keep strict account of all its receipts and expenditures and shall each quarter make a quarterly report to the county court of Harrison county containing
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, the authority shall make an annual report containing an itemized statement of its receipts and disbursements for the preceding year, and such annual report shall be published once a week for two successive weeks in two newspapers of opposite politics of general circulation in, and published in, Harrison county, West Virginia. The books, records and accounts of the authority shall be subject to audit and examination by the office of the state tax commissioner of West Virginia and by any other proper public official or body in the manner provided by law.

Sec. 16. Employees to Be Covered by Workmen's Compensation.—All employees of the authority eligible thereto shall be deemed to be within the workmen's compensation act of West Virginia, and premiums on their compensation shall be paid by the authority as required by law.

Sec. 17. Dissolution of Authority.—The authority may
Enr. H. B. No. 394]

at any time pay off and discharge in full all of its indebtedness, obligations and liabilities, reconvey the airport properties, appurtenances and facilities to the county court of Harrison county and be dissolved. Before making such reconveyance of its properties, the authority shall first publish notice of its intention so to do and of its intention to be dissolved once a week for four successive weeks in two newspapers of opposite politics published in, and of general circulation in, Harrison county. Certificates from the publishers of the papers showing such publication shall be filed with the county court of Harrison county on or before the deed reconveying said properties is delivered. Any funds remaining in the hands of the authority at the time of the reconveyance of said properties shall be by the authority paid over to the county court of Harrison county to be used by it for purposes in connection with said airport. Upon the payment of its indebtedness, obligations and liabilities, the publishing of the notices aforesaid, the reconveyance of its properties, and the paying over to the county court of any funds remaining in its hands, the authority shall cause a cer-
certificate showing its dissolution to be executed under its
name and seal and to be recorded in the office of the clerk
of the county court of Harrison county, and thereupon its
dissolution shall be complete.

Sec. 18. Automatic Termination of the Right to Establish
the Authority.—If on or before the first day of March,
one thousand nine hundred sixty-nine, the county court
of Harrison county has not appointed the members of
the authority who are to constitute the board for manage-
ment of its business and affairs, as provided in section
three hereof, all right to create and establish Benedum
Airport Authority under this act shall automatically
terminate.

Sec. 19. Liberal Construction of Act.—It is the purpose
of this act to provide for the acquisition, construction, im-
provement, extending, maintenance and operation of a
public airport in a prudent and economical manner, and
this act shall be liberally construed as giving to the au-
 thority full and complete power reasonably required to
give effect to the purposes hereof. The provisions of this
act are in addition to and not in derogation of any power
existing in the county court of Harrison county under any constitutional or statutory provisions which it may now have, or may hereafter acquire.

Sec. 20. Provisions Severable.—The several sections and provisions of this act are severable, and if any section or provision hereof shall be held unconstitutional, all the remaining sections and provisions of this act shall nevertheless remain valid.
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 House of Delegates.

Takes effect 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 9th day of March, 1959.

[Signature]
Governor