

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 394

(By Mr. Robertson & White)

PASSED Feb. 27 1959

In Effect From Passage



Filed in Office of the Secretary of State
of West Virginia MAR 10 1959
JON R. FURDETT
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.*—

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

Sec. 2. *Purposes.*—The authority is hereby authorized
2 and empowered to acquire, equip, construct, improve,
3 maintain and operate a public airport with all usual and
4 convenient appurtenances and facilities in Harrison coun-
5 ty, West Virginia, to serve as a public airport for the
6 convenience and accommodation of the inhabitants of
7 Harrison county and the public generally.

Sec. 3. *Members of Authority.*—The management and
2 control of the Benedum Airport Authority, its property,
3 operations, business and affairs, shall be lodged in a board
4 of five persons who shall be known as the members of
5 the authority and who shall be appointed for a term of
6 five years each by the county court of Harrison county,
7 except that, as to the first board appointed, the term of
8 one member shall expire on the first day of March next
9 ensuing, the term of another member shall expire one
10 year thereafter, the term of another member shall expire
11 two years thereafter, the term of another member shall
12 expire three years thereafter, and the term of the re-
13 maining member shall expire four years thereafter. As
14 a member's term expires, the county court of Harrison
15 county shall appoint a member for a full term of five
16 years. A member may be reappointed for such additional
17 term or terms as the county court may deem proper. If
18 a member resigns, is removed or for any reason his mem-
19 bership terminates during his term of office, a successor
20 shall be appointed by the county court to fill out the
21 remainder of his term. Members in office at the expira-

22 tion of their respective terms shall continue to serve until
23 their successors have been appointed and have qualified.
24 The county court of Harrison county may at any time
25 for good cause remove a member or members of the
26 board of the authority by an order duly entered of record
27 and may appoint a successor member or successor mem-
28 bers for any member or members so removed. If any
29 member objects to being so removed, he may, in writing,
30 demand a hearing, and the county court of Harrison
31 county shall promptly thereafter hold a public hearing
32 thereon. After such public hearing, the county court
33 shall determine whether the member shall be removed or
34 shall be permitted to continue in office.

Sec. 4. *Qualification of Members of the Authority.*—

2 All members of the board of the authority shall be citizens
3 of West Virginia, over thirty years of age, and residents
4 of Harrison county. No member of the board shall be
5 engaged in the aviation business as a major part of his
6 activities. Not more than three members of the authority
7 shall belong to the same political party. One member

8 of the board of the authority may also be a member of
9 the county court of Harrison county.

Sec. 5. *Compensation of Members of the Authority.*—

2 No member of the board of the authority shall receive
3 any compensation, whether in form of salary, per diem
4 allowances or otherwise, for or in connection with his
5 services as such member. Each member shall, however,
6 be entitled to reimbursement by the authority for any
7 necessary expenditures in connection with the perform-
8 ance of his general duties as such member.

Sec. 6. *Authority to Be a Public Corporation.*—The

2 authority when created, and the members thereof, shall
3 constitute and be a public corporation under the name of
4 Benedum Airport Authority, and as such shall have per-
5 petual succession, may contract and be contracted with,
6 sue and be sued, plead and be impleaded, and have and
7 use a common seal.

Sec. 7. *Powers.*—The Benedum Airport Authority is

2 hereby given power and authority as follows:

3 (1) To make and adopt all necessary by-laws, rules

4 and regulations for its organization and operations not
5 inconsistent with law;

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

9 (3) To enter into contracts with any person, govern-
10 mental department, firm or corporation, including both
11 public and private corporations, and generally to do any
12 and all things necessary or convenient for the purpose
13 of acquiring, equipping, constructing, maintaining, im-
14 proving, extending, financing and operating a public air-
15 port in Harrison county, West Virginia;

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

18 (5) To apply for, receive and use grants in aid, dona-
19 tions and contributions from any source or sources, and
20 to accept and use bequests, devices, gifts and donations
21 from any person, firm or corporation;

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

24 (7) To purchase, own, hold, sell and dispose of per-

25 sonal property and to sell, lease or otherwise dispose of
26 any real estate which it may own;

27 (8) To borrow money and execute and deliver nego-
28 tiable notes, mortgage bonds, other bonds, debentures,
29 and other evidences of indebtedness therefor, and give
30 such security therefor as shall be requisite, including
31 giving a mortgage or deed of trust on its airport proper-
32 ties and facilities in connection with the issuance of
33 mortgage bonds;

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

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

Sec. 8. *Indebtedness of the Authority.*—The authority

2 may incur any proper indebtedness and issue any obliga-
3 tions and give any security therefor which it may deem
4 necessary or advisable in connection with carrying out
5 its purposes as hereinbefore mentioned. No statutory
6 limitation with respect to the nature or amount of in-
7 debtedness which may be incurred by municipalities or
8 other public bodies shall apply to indebtedness of the
9 authority. No indebtedness of any nature of the authority
10 shall constitute an indebtedness of the county court of
11 Harrison county or a charge against any property of said
12 county court. No obligation incurred by the authority
13 shall give any right against any member of the county
14 court of Harrison county or any member of the board of
15 the authority. The rights of creditors of the authority
16 shall be solely against the authority as a corporate body
17 and shall be satisfied only out of property held by it in
18 its corporate capacity.

Sec. 9. Agreements in Connection with Obtaining Funds.

2 —The authority may, in connection with obtaining funds
3 for its purposes, enter into any agreement with any per-
4 son, firm or corporation, including the federal govern-

5 ment, or any agency or subdivision thereof, containing
6 such provisions, covenants, terms and conditions as the
7 authority may deem advisable.

Sec. 10. *Authority to Have Right of Eminent Domain.*—

2 Whenever is shall be deemed necessary by the authority
3 in connection with the exercise of its powers herein con-
4 ferred to take or acquire any lands, structures or build-
5 ings or other rights, either in fee or as easements for the
6 purposes herein set forth, the authority may purchase
7 the same directly or through its agents from the owner
8 or owners thereof, or failing to agree with the owner or
9 owners thereof, the authority may exercise the power of
10 eminent domain in the manner provided for condemna-
11 tion proceedings in chapter fifty-four of the code of West
12 Virginia, as heretofore and hereafter amended.

Sec. 11. *Property, Bonds and Obligations of Authority*

2 *Exempt from Taxation.*—The authority shall be exempt
3 from the payment of any taxes or fees to the state or any
4 subdivisions thereof or to any officer or employee of the
5 state or other subdivision thereof. The property of the
6 authority shall be exempt from all local and municipal

7 taxes. Bonds, notes, debentures and other evidence of
8 indebtedness of the authority are declared to be issued for
9 a public purpose and to be public instrumentalities, and,
10 together with interest thereon, shall be exempt from
11 taxes.

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

Sec. 13. *Authority May Lease Airport and Facilities to
2 County Court or Other Lessee.*—The authority may lease
3 its airport and all the appurtenances and facilities there-
4 with to the county court of Harrison county or to any
5 other available lessee at such rental and upon such terms
6 and conditions as to the authority shall seem proper. If
7 the authority determines to lease the airport and its

8 appurtenances and facilities, it shall first offer the same
9 to the county court of Harrison county upon an annual
10 lease, and it shall not lease the airport and its appurten-
11 ances and facilities to any other lessee until the county
12 court of Harrison county has indicated that it does not
13 desire to lease said properties. The county court of Harri-
14 son county is hereby authorized to enter into a lease with
15 the authority for said airport and appurtenances and
16 facilities at such rental and upon such terms and condi-
17 tions as it shall deem proper, and the county court of
18 Harrison county is hereby authorized to levy taxes as
19 provided by law for the purpose of paying the rent for
20 said airport, appurtenances and facilities.

Sec. 14. *Disposition of Surplus of Authority.*—If the
2 authority should realize a surplus, whether from operat-
3 ing the airport or leasing it for operation, over and above
4 the amount required for the maintenance, improvement
5 and operation of the airport and for meeting all required
6 payments on its obligations, it shall set aside such reserve
7 for future operations, improvements and contingencies
8 as it shall deem proper and shall then apply the residue .

9 of such surplus, if any, to the payment of any recognized
10 and established obligations not then due; and after all
11 such recognized and established obligations have been
12 paid off and discharged in full, the authority shall, at
13 the end of each fiscal year, set aside the reserve for future
14 operations, improvements and contingencies, as aforesaid,
15 and then pay the residue of such surplus, if any, to the
16 county court of Harrison county, to be used by the county
17 court of Harrison county for general county purposes.

Sec. 15. *Contributions to Authority by County Court*

2 *and Others—Funds and Accounts of the Authority.—*

3 Contributions may be made to the authority from time to
4 time by the county court of Harrison county and by any
5 persons, firms or corporations that shall desire so to do.
6 All such funds and all other funds received by the
7 authority shall be deposited in such bank or banks as the
8 authority may direct and shall be withdrawn therefrom
9 in such manner as the authority may direct. The au-
10 thority shall keep strict account of all its receipts and
11 expenditures and shall each quarter make a quarterly re-
12 port to the county court of Harrison county containing

13 an itemized account of its receipts and disbursements
14 during the preceding quarter. Such report shall be made
15 within sixty days after the termination of the quarter.
16 Within sixty days after the end of each fiscal year, the
17 authority shall make an annual report containing an
18 itemized statement of its receipts and disbursements for
19 the preceding year, and such annual report shall be pub-
20 lished once a week for two successive weeks in two news-
21 papers of opposite politics of general circulation in, and
22 published in, Harrison county, West Virginia. The books,
23 records and accounts of the authority shall be subject
24 to audit and examination by the office of the state tax
25 commissioner of West Virginia and by any other proper
26 public official or body in the manner provided by law.

Sec. 16. *Employees to Be Covered by Workmen's Com-*
2 *pensation.*—All employees of the authority eligible thereto
3 shall be deemed to be within the workmen's compensa-
4 tion act of West Virginia, and premiums on their com-
5 pensation shall be paid by the authority as required by
6 law.

Sec. 17. *Dissolution of Authority.*—The authority may

2 at any time pay off and discharge in full all of its indebted-
3 ness, obligations and liabilities, reconvey the airport prop-
4 erties, appurtenances and facilities to the county court
5 of Harrison county and be dissolved. Before making such
6 reconveyance of its properties, the authority shall first
7 publish notice of its intention so to do and of its intention
8 to be dissolved once a week for four successive weeks in
9 two newspapers of opposite politics published in, and of
10 general circulation in, Harrison county. Certificates from
11 the publishers of the papers showing such publication
12 shall be filed with the county court of Harrison county on
13 or before the deed reconveying said properties is de-
14 livered. Any funds remaining in the hands of the au-
15 thority at the time of the reconveyance of said properties
16 shall be by the authority paid over to the county court
17 of Harrison county to be used by it for purposes in con-
18 nection with said airport. Upon the payment of its in-
19 debtedness, obligations and liabilities, the publishing of
20 the notices aforesaid, the reconveyance of its properties,
21 and the paying over to the county court of any funds
22 remaining in its hands, the authority shall cause a cer-

23 tificate showing its dissolution to be executed under its
24 name and seal and to be recorded in the office of the clerk
25 of the county court of Harrison county, and thereupon its
26 dissolution shall be complete.

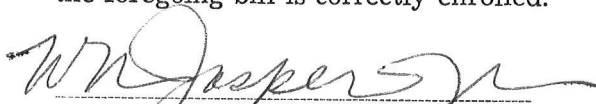
Sec. 18. *Automatic Termination of the Right to Establish the Authority.*—If on or before the first day of March,
2 one thousand nine hundred sixty-nine, the county court
3 of Harrison county has not appointed the members of
4 the authority who are to constitute the board for management
5 of its business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

Sec. 19. *Liberal Construction of Act.*—It is the purpose
2 of this act to provide for the acquisition, construction, improvement,
3 extending, maintenance and operation of a
4 public airport in a prudent and economical manner, and
5 this act shall be liberally construed as giving to the authority
6 full and complete power reasonably required to
7 give effect to the purposes hereof. The provisions of this
8 act are in addition to and not in derogation of any power

9 existing in the county court of Harrison county under any
10 constitutional or statutory provisions which it may now
11 have, or may hereafter acquire.

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

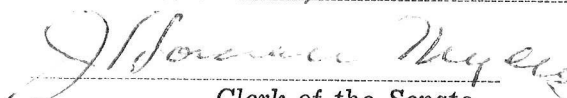
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee



Chairman House Committee


Originated in the House of Delegates.

Takes effect From passage.

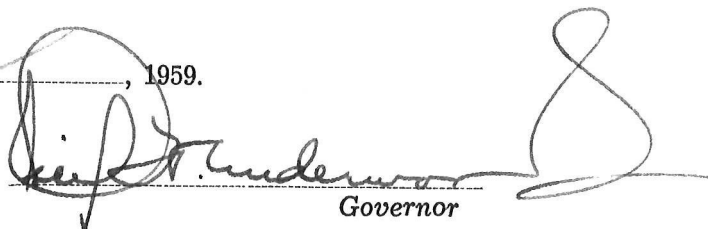

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 9th
day of March, 1959.


Governor

