

WEST VIRGINIA LEGISLATURE
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ENROLLED

SENATE BILL NO. 37

(By Mr. Riley and Mr Tompos)

PASSED February 6 1962

In Effect From Passage



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JOE F. BURDETT
SECRETARY OF STATE

ENROLLED

Senate Bill No. 37

(By MR. RILEY and MR. TOMPOS)

[Passed February 6, 1962; in effect from passage.]

AN ACT to authorize the Board of Commissioners of the County of Ohio to create an airport authority and providing for the membership and 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 the giving of 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 Board of Commissioners of the County of Ohio of the present county airport and the improvement and operation thereof; for the authority to lease the airport; for the Board of Commissioners of the County of Ohio to become the lessee of the airport and pay the rental therefor; for contributions to the funds of the authority by the Board of Commissioners of the County of Ohio and others; for the keeping of the funds and accounts of the authority; for the disposition of any surplus funds; for the covering of 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. Wheeling-Ohio County Airport Authority

2 Authorized.—The Board of Commissioners of the County
3 of Ohio is hereby authorized to create and establish a
4 public agency to be known as the “Wheeling-Ohio County
5 Airport Authority” for the purposes and in the manner
6 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 Ohio and
5 Brooke counties, West Virginia, to serve as a public air-
6 port for the convenience and accommodation of the in-
7 habitants of Ohio county and the public generally.

Sec. 3. Members of the Authority.—The management
2 and control of the Wheeling-Ohio County Airport Au-
3 thority, its property, operations, business and affairs,
4 shall be lodged in a board of five persons who shall be
5 known as “Members of the Authority”, each of whom
6 shall be appointed for a term of five years, except that
7 as to the first four appointed to the first board appointed,
8 the term of one member shall expire on the first day of
9 July next ensuing and the term of the next member shall
10 expire on the first day of July two years thereafter, the
11 term of another member shall expire on the first day of
12 July three years thereafter and the term of the remaining
13 member shall expire on the first day of July four years
14 thereafter: *Provided, however,* That the county commis-
15 sioner appointed to serve as a member of the authority,
16 as hereinafter provided, shall not serve for a term as

17 member of the authority which is longer than his term
18 of office as a member of the Board of Commissioners of the
19 County of Ohio.

20 All members shall be appointed by the Board of Com-
21 missioners of the County of Ohio: *Provided, however,*
22 That one member of the authority shall be a member of
23 the Board of Commissioners of the County of Ohio: *Pro-*
24 *vided further,* That of the remaining four members of
25 the authority no more than two shall be members of the
26 same political party, nor shall they hold any political
27 office of any nature.

Sec. 4. Removal of Member.—The members of the
2 authority shall serve at the will and pleasure of the
3 Board of Commissioners of the County of Ohio: *Provided,*
4 *however,* That if the Board of Commissioners of the
5 County of Ohio desires to remove a member of the au-
6 thority it shall notify said member in writing, stating the
7 reasons for the Board of Commissioners of the County of
8 Ohio desiring said removal. Within ten days of the re-
9 ceipt by the member of the authority of the written notice
10 of removal, said member, if he so desires, may have a

11 hearing before the Board of Commissioners of the County
12 of Ohio, and any such hearing shall be held within ten
13 days of the member's written request for said hearing.

Sec. 5. Substitution of Members.—If any member of
2 the authority die, or resign, or be removed, or for any
3 other reason cease to be a member of the authority, the
4 Board of Commissioners of the County of Ohio shall ap-
5 point another person to fill the unexpired portion of the
6 term of such member.

Sec. 6. 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 Ohio county.

Sec. 7. 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. 8. 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
4 of “Wheeling-Ohio County Airport Authority”, and as
5 such shall have perpetual succession, may contract and
6 be contracted with, sue and be sued, plead and be im-
7 pleaded, and have and use a common seal.

Sec. 9. Powers.—The Wheeling-Ohio County Airport
2 Authority is 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 of
13 acquiring, equipping, constructing, maintaining, improv-
14 ing, extending, financing and operating a public airport
15 in Ohio and Brooke counties, West Virginia;

16 (4) To delegate any authority given to it by law to any
17 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, in-
20 cluding but not limited to the federal government and
21 any agency thereof, and the State of West Virginia, and
22 to accept and use bequests, devises, gifts and donations
23 from any person, firm or corporation;

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

26 (7) To purchase, own, hold, sell and dispose of personal
27 property and to sell, lease or otherwise dispose of any
28 real estate which it may own;

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

36 (9) To raise funds by the issuance and sale of revenue

37 bonds in the manner provided by the applicable pro-
38 visions of article four-a, chapter eight of the code of West
39 Virginia, one thousand nine hundred thirty-one, as
40 amended, it being hereby expressly provided that the
41 Wheeling-Ohio County Airport Authority is a "municipi-
42 pal authority" within the definition of that term as used
43 in said article four-a, chapter eight of the code; and
44 (10) To expend its funds in the execution of the powers
45 and authority herein given.

Sec. 10. 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 Board of Commis-
11 sioners of the County of Ohio, nor of said county, or a
12 charge against any property of said county. No obliga-

13 tion incurred by the authority shall give any right
14 against any member of the Board of Commissioners of the
15 County of Ohio or any member of the board of the au-
16 thority. The rights of creditors of the authority shall be
17 solely against the authority as a corporate body and
18 shall be satisfied only out of property held by it in its
19 corporate capacity.

Sec. 11. Agreements in Connection with Obtaining
2 **Funds.**—The authority may, in connection with obtaining
3 funds for its purposes, enter into any agreement with any
4 person, firm or corporation, including the federal gov-
5 ernment, or any agency or subdivision thereof, contain-
6 ing such provisions, covenants, terms and conditions as
7 the authority may deem advisable.

Sec. 12. Authority to Have Right of Eminent Domain.—
2 Whenever it 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 buildings
5 or other rights, either in fee or as easements, for the pur-
6 poses herein set forth, the authority may purchase the
7 same directly or through its agents from the owner or

8 owners thereof, or failing to agree with the owner or own-
9 ers thereof, the authority may exercise the power of emi-
10 nent domain in the manner provided for condemnation
11 proceedings in chapter fifty-four of the code of West Vir-
12 ginia, one thousand nine hundred thirty-one, as hereto-
13 fore and hereafter amended, and such purposes are here-
14 by declared to be public uses for which private property
15 may be taken or damaged.

Sec. 13. 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 of any subdivisions 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
9 for a public purpose and to be public instrumentalities,
10 and, together with interest thereon, shall be exempt from
11 taxes.

Sec. 14. County Commissioners Authorized to Convey

2 **Present Airport Properties and Facilities to the Authority.**

3 —The Board of Commissioners of the County of Ohio is
4 hereby authorized to convey to the authority the present
5 airport property owned by the County of Ohio, situate
6 partly in Ohio county and partly in Brooke county, to-
7 gether with all the appurtenances and facilities therewith,
8 such conveyance to be without consideration or for such
9 price and upon such terms and conditions as the Board of
10 Commissioners of the County of Ohio shall deem proper.

Sec. 15. Authority may Lease Airport and Facilities to
2 **the Board of Commissioners of the County of Ohio or**
3 **Other Lessee.**—The authority may lease its airport and
4 all the appurtenances and facilities therewith to the Board
5 of Commissioners of the County of Ohio or to any other
6 available lessee at such rental and upon such terms and
7 conditions as to the authority shall seem proper. If the
8 authority determines to lease the airport and its appur-
9 tenances and facilities, as a whole, it shall first offer the
10 same to the Board of Commissioners of the County of
11 Ohio upon an annual lease, and it shall not lease the air-
12 port and its appurtenances and facilities as a whole to any
13 other lessee until the Board of Commissioners of the

14 County of Ohio has notified the authority that it does not
15 desire to lease said properties, which notice shall be given
16 within thirty days after notice by the authority of a de-
17 sire on its part to lease the airport as a whole. The Board
18 of Commissioners of the County of Ohio is hereby au-
19 thorized to enter into a lease with the authority for said
20 airport and appurtenances and facilities at such rental
21 and upon such terms and conditions as it shall deem prop-
22 er, and the Board of Commissioners of the County of Ohio
23 is hereby authorized to levy taxes as provided by law for
24 the purpose of paying the rent for said airport, appur-
25 tenances and facilities. The authority, however, may lease
26 one or more portions of said airport, not including run-
27 ways and taxiways, without first offering the same to the
28 Board of Commissioners of the County of Ohio. Such lease
29 shall be for some purpose associated with airport activi-
30 ties.

Sec. 16. Disposition of Surplus of Authority.—If the
2 authority should realize a surplus, whether from operating
3 the airport or leasing it for operation, over and above the
4 amount required for the maintenance, improvement and

5 operation of the airport and for meeting all required pay-
6 ments on its obligations, it shall set aside such reserve for
7 future operations, improvements and contingencies as it
8 shall deem proper and shall then apply the residue of
9 such surplus, if any, to the payment of any recognized and
10 established obligations not then due; and after all such
11 recognized and established obligations have been paid off
12 and discharged in full, the authority shall, at the end of
13 each fiscal year, set aside the reserve for future operations,
14 improvements and contingencies, as aforesaid, and then
15 pay the residue of such surplus, if any, to the Board of
16 Commissioners of the County of Ohio, to be used by said
17 Board of Commissioners for general county purposes.

Sec. 17. Contributions to Authority by the Board of
2 **Commissioners of the County of Ohio and Others; Funds**
3 **and Accounts of the Authority.**—Contributions may be
4 made to the authority from time to time by the Board of
5 Commissioners of the County of Ohio and by any persons,
6 firms or corporations that shall desire so to do. All such
7 funds and all other funds received by the authority shall
8 be deposited in such bank or banks as the authority may

9 direct and shall be withdrawn therefrom in such manner
10 as the authority may direct. The authority shall keep
11 strict account of all its receipts and expenditures and shall
12 each quarter make a quarterly report to the Board of
13 Commissioners of the County of Ohio containing an item-
14 ized account of its receipts and disbursements during the
15 preceding quarter. Such report shall be made within sixty
16 days after the termination of the quarter. Within sixty
17 days after the end of each fiscal year, the authority shall
18 make an annual report containing an itemized statement
19 of its receipts and disbursements for the preceding year,
20 and such annual report shall be published once a week
21 for two successive weeks in two newspapers of opposite
22 politics published in Ohio county, West Virginia, and of
23 general circulation in Ohio county, West Virginia. The
24 books, records and accounts of the authority shall be sub-
25 ject to audit and examination by the office of the state tax
26 commissioner of West Virginia and by any other proper
27 public official or body in the manner provided by law.

Sec. 18. Employees to Be Covered by Workmen's Com-
2 **pensation.**—All employees of the authority eligible there-

3 under shall be deemed to be within the workmen's com-
4 pensation act of West Virginia, and premiums shall be
5 paid by the authority to the workmen's compensation
6 fund as required by law.

Sec. 19. Dissolution of Authority.—The authority may
2 at any time pay off and discharge in full all of its indebt-
3 edness, obligations and liabilities, reconvey the airport
4 properties, appurtenances and facilities to the Board of
5 Commissioners of the County of Ohio and be dissolved.
6 Before making such reconveyance of its properties, the
7 authority shall first publish notice of its intention so to
8 do and of its intention to be dissolved, once a week for
9 four successive weeks in two newspapers of opposite
10 politics published in, and of general circulation in Ohio
11 county, West Virginia. Certificates from the publishers of
12 the papers showing such publication shall be filed with
13 the Board of Commissioners of the County of Ohio on or
14 before the deed reconveying said properties is delivered.
15 Any funds remaining in the hands of the authority at the
16 time of the reconveyance of said properties shall be by
17 the authority paid over to the Board of Commissioners of

18 the County of Ohio to be used by it for purposes in con-
19 nection with said airport. Upon the payment of its in-
20 debtedness, obligations and liabilities, the publishing of
21 the notices aforesaid, the reconveyance of its properties,
22 and the paying over to the Board of Commissioners of the
23 County of Ohio of any funds remaining in its hands, the
24 authority shall cause a certificate showing its dissolution
25 to be executed under its name and seal and to be recorded
26 in the office of the clerk of the county court of Ohio
27 county, and thereupon its dissolution shall be complete.

Sec. 20. Automatic Termination of the Right to Estab-
2 **lish the Authority.**—If on or before the first day of July,
3 one thousand nine hundred sixty-two, the Board of Com-
4 missioners of the County of Ohio shall not have appointed
5 the members of the authority who are to constitute the
6 board for management of its business and affairs, as pro-
7 vided in section three thereof, all right to create and
8 establish said Wheeling-Ohio County Airport Authority
9 under this act shall automatically terminate.

Sec. 21. Liberal Construction of Act.—It is the purpose
2 of this act to provide for the acquisition, construction,

3 improvement, extension, maintenance and operation of
4 a public airport in a prudent and economical manner,
5 and this act shall be liberally construed as giving to the
6 authority full and complete power reasonably required
7 to give effect to the purposes hereof. The provisions of
8 this act are in addition to and not in derogation of any
9 power existing in the Board of Commissioners of the
10 County of Ohio under any constitutional or statutory
11 provisions which it may now have, or may hereafter
12 acquire.

Sec. 22. Provisions Severable.—The several sections
2 and provisions of this act are severable, and if any sec-
3 tion or provision hereof shall be held unconstitutional,
4 all the remaining sections and provisions of this act
5 shall nevertheless remain valid.

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

Samuel Davis, Jr.
Chairman Senate Committee

Mrs. M. H. Withrow
Chairman House Committee

Originated in the Senate.

Takes effect *From* passage.

Thomas Myers
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Harvard W. Carson
President of the Senate

John W. Singleton
Speaker House of Delegates

The within *approved* this the *thirtieth*
day of *February*, 1962.

W. W. Bann
Governor