

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963



ENROLLED

HOUSE BILL No. 476

(By Mr. Abrams and
Mrs Withrow)



PASSED Feb. 23 1963

In Effect FROM Passage



Filed in Office of the Secretary of State
of West Virginia MAR 4 1963

JOE F. BURDETT
SECRETARY OF STATE

476

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House Bill No. 476

(By MR. ABRAMS and MRS. WITHROW)

[Passed February 23, 1963; in effect from passage.]

AN ACT to authorize the county court of the county of Raleigh 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 county court of the county of Raleigh of the present county airport and

the improvement and operation thereof; for the authority to lease the airport; for the county court of the county of Raleigh to become the lessee of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court of the county of Raleigh 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. Raleigh County Airport Authority Authorized.—The county court of the county of Raleigh is hereby authorized to create and establish a public agency to be known as the "Raleigh County 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 Raleigh county, West Virginia, to serve as a public airport for the convenience and accommodation of the inhabitants of Raleigh county and the public generally.

Sec. 3. Members of the Authority.—The management
2 and control of the Raleigh county airport authority, its
3 property, operations, business and affairs, shall be lodged
4 in a board of five persons who shall be known as “Mem-
5 bers of the Authority”, each of whom shall be appointed
6 for a term of five years, except that as to the first four
7 appointed to the first board appointed, the term of one
8 member shall expire on the first day of July next ensuing
9 and the term of the next member shall expire on the first
10 day of July two years thereafter, the term of another
11 member shall expire on the first day of July three years
12 thereafter and the term of the remaining member shall
13 expire on the first day of July four years thereafter:
14 *Provided, however,* That the county commissioner ap-
15 pointed to serve as a member of the authority, as herein-
16 after provided, shall not serve for a term as member of
17 the authority which is longer than his term of office as
18 a member of the county court of the county of Raleigh.
19 All members shall be appointed by the county court of
20 the county of Raleigh: *Provided, however,* That one mem-
21 ber of the authority shall be a member of the county

22 court of the county of Raleigh: *Provided further*, That of
23 the remaining four members of the authority no more than
24 two shall be members of the same political party, nor shall
25 they hold any political 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 county court of the county of Raleigh: *Provided, however*,
4 That if the county court of the county of Raleigh desires
5 to remove a member of the authority it shall notify said
6 member in writing, stating the reasons for the county
7 court of the county of Raleigh desiring said removal.
8 Within ten days of the receipt by the member of the
9 authority of the written notice of removal, said member,
10 if he so desires, may have a hearing before the county
11 court of the county of Raleigh, and any such hearing
12 shall be held within ten days of the member's request for
13 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 county court of the county of Raleigh shall appoint an-

5 other person to fill the unexpired portion of the term of
6 such member.

Sec. 6. Qualification of Members of the Authority.—

2 All members of the board of the authority shall be citi-
3 zens of West Virginia, over thirty years of age, and resi-
4 dents of Raleigh 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 "Raleigh County Airport Authority", and as such
5 shall have perpetual succession, may contract and be
6 contracted with, sue and be sued, plead and be impleaded,
7 and have and use a common seal.

Sec. 9. Powers.—The Raleigh county airport authority

2 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 Raleigh 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, 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 per-
27 sonal property and to sell, lease or otherwise dispose of
28 any 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 Raleigh county airport authority is a "municipal author-
42 ity" within the definition of that term as used in said

43 article four-a, chapter eight of the code; and

44 (10) To expend its funds in the execution of the
45 powers 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 county court of
11 the county of Raleigh, nor of said county, or a charge
12 against any property of said county. No obligation in-
13 curred by the authority shall give any right against any
14 member of the county court of the county of Raleigh
15 or any member of the board of the authority. The rights
16 of creditors of the authority shall be solely against
17 the authority as a corporate body and shall be satisfied
18 only out of property held by it in its 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
4 any person, firm or corporation, including the federal
5 government, or any agency or subdivision thereof, con-
6 taining such provisions, covenants, terms and conditions
7 as the authority may deem advisable.

Sec. 12. Authority to Have Right of Eminent Domain.

2 —Whenever it shall be deemed necessary by the author-
3 ity in connection with the exercise of its powers herein
4 conferred, to take or acquire any lands, structures or
5 buildings or other rights, either in fee or as easements,
6 for the purposes herein set forth, the authority may pur-
7 chase the same directly or through its agents from the
8 owner or owners thereof, or failing to agree with the
9 owner or owners thereof, the authority may exercise the
10 power of eminent domain in the manner provided for
11 condemnation proceedings in chapter fifty-four of the
12 code of West Virginia, one thousand nine hundred
13 thirty-one, as heretofore and hereafter amended, and
14 such purposes are hereby declared to be public uses for

15 which private property 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 Author-**
3 **ity.**—The county court of the county of Raleigh is hereby
4 authorized to convey to the authority the present air-
5 port property owned by the county of Raleigh, situate
6 in Raleigh county, together with all the appurtenances
7 and facilities therewith, such conveyance to be without
8 consideration or for such price and upon such terms and
9 conditions as the county court of the county of Raleigh
10 shall deem proper.

Sec. 15. Authority May Lease Airport and Facilities

2 to the County Court of the County of Raleigh or Other
3 Lessee.—The authority may lease its airport and all the
4 appurtenances and facilities therewith to the county
5 court of the county of Raleigh or to any other available
6 lessee at such rental and upon such terms and conditions
7 as to the authority shall seem proper. If the authority
8 determines to lease the airport and its appurtenances
9 and facilities, as a whole, it shall first offer the same to
10 the county court of the county of Raleigh upon an
11 annual lease, and it shall not lease the airport and its
12 appurtenances and facilities as a whole to any other
13 lessee until the county court of the county of Raleigh
14 has notified the authority that it does not desire to lease
15 said properties, which notice shall be given within thirty
16 days after notice by the authority of a desire on its
17 part to lease the airport as a whole. The county court
18 of the county of Raleigh is hereby authorized to enter
19 into a lease with the authority for said airport and appur-
20 tenances and facilities at such rental and upon such terms
21 and conditions as it shall deem proper, and the county

22 court of the county of Raleigh is hereby authorized to
23 levy taxes as provided by law for the purpose of paying
24 the rent for said airport, appurtenances and facilities.
25 The authority, however, may lease one or more portions
26 of said airport, not including runways and taxiways,
27 without first offering the same to the county court of
28 the county of Raleigh. Such lease shall be for some pur-
29 pose associated with airport activities.

Sec. 16. Disposition of Surplus of Authority.—If the
2 authority should realize a surplus, whether from oper-
3 ating the airport or leasing it for operation, over and
4 above the amount required for the maintenance, im-
5 provement and operation of the airport and for meeting
6 all required payments on its obligations, it shall set aside
7 such reserve for future operations, improvements and
8 contingencies as it shall deem proper and shall then apply
9 the residue of such surplus, if any, to the payment of any
10 recognized and established obligations not then due; and
11 after all such recognized and established obligations have
12 been paid off and discharged in full, the authority shall,
13 at the end of each fiscal year, set aside the reserve for

14 future operations, improvements and contingencies, as
15 aforesaid, and then pay the residue of such surplus, if any,
16 to the county court of the county of Raleigh, to be used by
17 said county court for general county purposes.

Sec. 17. Contributions to Authority by the County
2 Court of the County of Raleigh and Others; Funds and
3 Accounts of the Authority.—Contributions may be made
4 to the authority from time to time by the county court
5 of the county of Raleigh and by any persons, firms or
6 corporations that shall desire so to do. All such funds
7 and all other funds received by the authority shall be
8 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
12 shall each quarter make a quarterly report to the county
13 court of the county of Raleigh containing an itemized
14 account of its receipts and disbursements during the
15 preceding quarter. Such report shall be made within
16 sixty days after the termination of the quarter. Within
17 sixty days after the end of each fiscal year, the authority

18 shall make an annual report containing an itemized
19 statement of its receipts and disbursements for the pre-
20 ceding year, and such annual report shall be published
21 once a week for two successive weeks in two newspapers
22 of opposite politics published in, and of general cir-
23 culation in Raleigh county, West Virginia. The books,
24 records and accounts of the authority shall be subject to
25 audit and examination by the office of the state tax com-
26 missioner of West Virginia and by any other proper public
27 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
4 compensation act of West Virginia, and premiums shall
5 be 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 indebted-
3 ness, obligations and liabilities, reconvey the airport
4 properties, appurtenances and facilities to the county
5 court of the county of Raleigh and be dissolved. Before

6 making such reconveyance of its properties, the authority
7 shall first publish notice of its intention so to do and of
8 its intention to be dissolved, once a week for four suc-
9 cessive weeks in two newspapers of opposite politics
10 published in, and of general circulation in Raleigh county,
11 West Virginia. Certificates from the publishers of the
12 papers showing such publication shall be filed with the
13 county court of the county of Raleigh on or before the
14 deed reconveying said properties is delivered. Any funds
15 remaining in the hands of the authority at the time of the
16 reconveyance of said properties shall be by the authority
17 paid over to the county court of the county of Raleigh
18 to be used by it for purposes in connection with said
19 airport. Upon the payment of its indebtedness, obliga-
20 tions and liabilities, the publishing of the notices afore-
21 said, the reconveyance of its properties, and the paying
22 over to the county court of the county of Raleigh of any
23 funds remaining in its hands, the authority shall cause
24 a certificate showing its dissolution to be executed under
25 its name and seal and to be recorded in the office of the
26 clerk of the county court of Raleigh county, and there-
27 upon its dissolution shall be complete.

Sec. 20. Automatic Termination of the Right to Establish the Authority.—If on or before the first day of July, one thousand nine hundred sixty-three, the county court of the county of Raleigh shall not have appointed the members of the authority who are to constitute the board for management of its business and affairs, as provided in section three thereof, all right to create and establish said Raleigh county airport authority under this act shall automatically terminate.

Sec. 21. Liberal Construction of Act.—It is the purpose of this act to provide for the acquisition, construction, improvement, extension, maintenance and operation of a public airport in a prudent and economical manner, and this act shall be liberally construed as giving to the authority 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 the county of Raleigh under any constitutional or statutory provisions which it may now have, or may hereafter 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.

Roy Parker
Chairman Senate Committee

Ethel L. Sandall
Chairman House Committee

Originated in the House.

Takes effect From passage.

Howard Meyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

Julius W. Singleton Sr.
Speaker House of Delegates

The within Approved this the 2nd
day of March, 1963.

W. W. Barron
Governor



Filed in Office of the Secretary of State
of West Virginia MAR 4 1963 MAR 4 1963
JOE F. BURDETT
SECRETARY OF STATE