

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1966

ENROLLED

SENATE BILL NO. 61

(By Mr. Cason, Mr. President,
and Mr. Jasper)

PASSED February 4, 1966

In Effect from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-14-66

#61

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Senate Bill No. 61

(By MR. CARSON, MR. PRESIDENT, and MR. JASPER)

[Passed February 4, 1966; in effect from passage.]

AN ACT to authorize the county court of the county of Fayette 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 the authority to lease the airport; for the county court

of the county of Fayette 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 Fayette 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. Fayette County Airport Authority Authorized.—The county court of the county of Fayette is hereby authorized to create and establish a public agency to be known as the “Fayette 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 Fayette county, West Virginia, to serve as a public airport for the convenience and accommodation of the inhabitants of Fayette county and the public generally.

Sec. 3. Members of the Authority.—The management
2 and control of the Fayette 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*, That the county commissioner appointed to
15 serve as a member of the authority, as hereinafter pro-
16 vided, shall not serve for a term as member of the au-
17 thority which is longer than his term of office as a member
18 of the county court of the county of Fayette.

19 All members shall be appointed by the county court of
20 the county of Fayette: *Provided, however*, That one mem-
21 ber of the authority shall be a member of the county court

22 of the county of Fayette: *Provided further*, That of the
23 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 Members.—The members of the
2 authority shall serve at the will and pleasure of the
3 county court of the county of Fayette: *Provided*, That if
4 the county court of the county of Fayette desires to re-
5 move a member of the authority it shall notify said mem-
6 ber in writing, stating the reasons for the county court
7 of the county of Fayette desiring said removal. Within
8 ten days of the receipt by the member of the authority of
9 the written notice of removal, said member, if he so de-
10 sires, may have a hearing before the county court of the
11 county of Fayette, and any such hearing shall be held
12 within ten days of the member's written request for said
13 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 Fayette 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 citizens
3 of West Virginia, over thirty years of age, and residents
4 of Fayette 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 au-

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

Sec. 9. Powers.—The Fayette 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 and
7 to employ and fix the compensation for personnel neces-
8 sary 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 Fayette county, 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 any
21 agency thereof, and the state of West Virginia, and to

22 accept and use bequests, devices, gifts and donations from
23 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 but not limited to the giving of a mortgage, deed of trust
34 or security agreement on or with respect to its airport
35 properties and facilities in connection with the issuance of
36 mortgage bonds;

37 (9) To raise funds by the issuance and sale of revenue
38 bonds in the manner provided by the applicable provi-
39 sions of article four-a, chapter eight of the code of West
40 Virginia, one thousand nine hundred thirty-one, as
41 amended, it being hereby expressly provided that the
42 Fayette county airport authority is a "municipal au-

43 thurity” within the definition of that term as used in said
44 article four-a, chapter eight of the code; and
45 (10) To expend its funds in the execution of the powers
46 and authority herein given.

Sec. 10. Indebtedness of the Authority.—The authority
2 may incur any proper indebtedness and issue any obli-
3 gations 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 Fayette, 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 Fayette or
15 any member of the board of the authority. The rights of
16 creditors of the authority shall be solely against the au-
17 thority as a corporate body and shall be satisfied only out
18 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 any
4 person, firm or corporation, including but not limited to
5 the federal government, or any agency or subdivision
6 thereof, containing such provisions, covenants, terms and
7 conditions as 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 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
10 of eminent domain in the manner provided for condem-
11 nation proceedings in chapter fifty-four of the code of
12 West Virginia, one thousand nine hundred thirty-one, as
13 heretofore and hereafter amended, and such purposes are
14 hereby declared to be public uses for which private
15 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. Authority May Lease Airport and Facilities to

2 **the County Court of the County of Fayette or Other**
3 **Lessee.**—The authority may lease its airport and all the
4 appurtenances and facilities therewith to the county court
5 of the county of Fayette or to any other available lessee
6 at such rental and upon such terms and conditions as to
7 the authority shall seem proper. If the authority deter-
8 mines to lease the airport and its appurtenances and fa-
9 cilities, as a whole, it shall first offer the same to the
10 county court of the county of Fayette upon an annual

11 lease, and it shall not lease the airport and its appurten-
12 ances and facilities as a whole to any other lessee until
13 the county court of the county of Fayette has notified
14 the authority that it does not desire to lease said proper-
15 ties, which notice shall be given within thirty days after
16 notice by the authority of a desire on its part to lease
17 the airport as a whole. The county court of the county
18 of Fayette is hereby authorized to enter into a lease with
19 the authority for said airport and appurtenances and
20 facilities at such rental and upon such terms and condi-
21 tions as it shall deem proper, and the county court of
22 the county of Fayette is hereby authorized to levy taxes
23 as provided by law for the purpose of paying the rent
24 for said airport, appurtenances and facilities. The au-
25 thority, however, may lease one or more portions of said
26 airport, not including runways and taxiways, without
27 first offering the same to the county court of the county
28 of Fayette. Such lease shall be for some purpose associated
29 with airport activities.

Sec. 15. 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, improve-
5 ment and operation of the airport and for meeting all re-
6 quired payments on its obligations, it shall set aside such
7 reserve for future operations, improvements and contin-
8 gencies as it shall deem proper and shall then apply the
9 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 Fayette, to be used
17 by said county court for general county purposes.

Sec. 16. Contributions to Authority by the County
2 Court of the County of Fayette 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 of
5 the county of Fayette and by any persons, firms or corpor-
6 ations that shall desire so to do. All such funds and all

7 other funds received by the authority shall be deposited
8 in such bank or banks as the authority may direct and
9 shall be withdrawn therefrom in such manner as the
10 authority may direct. The authority shall keep strict ac-
11 count of all its receipts and expenditures and shall each
12 quarter make a quarterly report to the county court of
13 the county of Fayette containing an itemized account of
14 its receipts and disbursements during the preceding quar-
15 ter. Such report shall be made within sixty days after the
16 termination of the quarter. Within sixty days after the
17 end of each fiscal year, the authority shall make an an-
18 nual report containing an itemized statement of its re-
19 cepts and disbursements for the preceding year, and such
20 annual report shall be published once a week for two suc-
21 cessive weeks in two newspapers of opposite politics
22 published in, and of general circulation in Fayette county,
23 West Virginia. The books, records and accounts of the
24 authority shall be subject to audit and examination by
25 the office of the state tax commissioner of West Virginia
26 and by any other proper public official or body in the
27 manner provided by law.

Sec. 17. 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. 18. Dissolution of Authority.—The authority may

2 at any time pay off and discharge in full all of its in-
3 debtedness, obligations and liabilities, reconvey the air-
4 port properties, appurtenances and facilities to the county
5 court of the county of Fayette 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 pub-
10 lished in, and of general circulation in Fayette 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 Fayette 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 Fayette to
18 be used by it for purposes in connection with said airport.
19 Upon the payment of its indebtedness, obligations and
20 liabilities, the publishing of the notices aforesaid, the
21 reconveyance of its properties, and the paying over to
22 the county court of the county of Fayette of any funds
23 remaining in its hands, the authority shall cause a certifi-
24 cate showing its dissolution to be executed under its name
25 and seal and to be recorded in the office of the clerk of the
26 county court of Fayette county, and thereupon its dissolu-
27 tion shall be complete.

Sec. 19. 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, and
5 this act shall be liberally construed as giving to the au-
6 thority 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 the county of Fayette

10 under any constitutional or statutory provisions which it
11 may now have, or may hereafter acquire.

Sec. 20. Provisions Severable.—The several sections
2 and provisions of this act are severable, and if any section
3 or provision hereof shall be held unconstitutional, all the
4 remaining sections and provisions of this act shall never-
5 theless remain valid.

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

O. Roy Parker
Chairman Senate Committee

James W. Loepp
Chairman House Committee

Originated in the Senate.

Takes effect

Passage.

Howard Thayer
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Howard E. Hanson
President of the Senate

H. Latham White
Speaker House of Delegates

The within _____ this the _____
day of _____, 1966.

Herbert C. Smith
Governor



FEB 14 12 02 PM '66
OFFICE OF THE GOVERNOR

PRESENTED TO THE
GOVERNOR

Date 2/11/66

Time 11:55 AM

FILED

FEB 14 11 07 PM '66

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

RDS