

WEST VIRGINIA LEGISLATURE

SECOND EXTRAORDINARY SESSION, 1971

ENROLLED

Committee Substitute

for
HOUSE BILL No. 2

Originating in the Committee
(By Mr. on the Judiciary)

PASSED November 3 1971

In Effect from Passage



FILED IN THE OFFICE
JOHN D. ROCKWELLER, W
SECRETARY OF STATE
THIS DATE 11-17-71

ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 2

(Originating in the House Committee on the Judiciary)

[Passed November 3, 1971; in effect from passage.]

AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-nine-a, authorizing the county court of a county to create an airport authority and relating to the membership and purposes of the authority; the appointment and removal of members of the authority; the acquisition by the authority of real estate and personal property; the acquisition, construction, improvement, maintenance and operation of a public airport, including the development of an industrial park and a waterworks or sewer system, or a combined waterworks and sewer system; corporate existence of the

authority; the issuance of revenue bonds, debentures, notes and securities, and the giving of security for the payment thereof; the authority to exercise the power of eminent domain; tax exemption for the property, funds and obligations of the authority; acquisition by the authority of any present county airport and the improvement and operation thereof; authorization to lease the airport; contributions to the funds of the authority by the county court and others; keeping of the funds and accounts of the authority; disposition of any surplus funds; making full-time employees of the authority public employees; dissolution of the authority; and a rule of construction.

Be it enacted by the Legislature of West Virginia:

That chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-nine-a, to read as follows:

ARTICLE 29A. COUNTY AIRPORT AUTHORITY.

§8-29A-1. County airport authority authorized.

1 The county court of a county is hereby authorized to
2 create and establish as a public agency a county airport

3 authority to be known as the "_____ County
4 Airport Authority" for the purposes and in the manner
5 hereinafter set forth.

§8-29A-2. Purposes.

1 The authority is hereby authorized and empowered to
2 acquire, equip, construct, improve, maintain and operate
3 a public airport within the county, with all usual and
4 convenient appurtenances and facilities pertaining there-
5 to, including, but not limited to, an industrial park and a
6 waterworks or sewerage system or a combined water-
7 works and sewerage system, and said airport shall be for
8 the convenience and accommodation of the inhabitants of
9 the county and the public generally.

§8-29A-3. Members of the authority.

1 The management and control of the county airport
2 authority, its property, operations, business and affairs,
3 shall be lodged in a board of five persons who shall be
4 known as "Members of the Authority," each of whom
5 shall be appointed for a term of five years, except that as
6 to the first four appointed to the first board appointed, the
7 term of one member shall expire on the first day of July

8 next ensuing and the term of the next member shall ex-
9 pire on the first day of July two years thereafter, the term
10 of another member shall expire on the first day of July
11 three years thereafter and the term of the remaining mem-
12 ber shall expire on the first day of July four years there-
13 after: *Provided*, That the county commissioner appointed
14 to serve as a member of the authority, as hereinafter pro-
15 vided, shall not serve for a term as member of the author-
16 ity which is longer than his term of office as a member of
17 the county court.

18 All members shall be appointed by the county court:
19 *Provided, however*, That one member of the authority shall
20 be a member of the county court: *Provided further*, That
21 of the remaining four members of the authority no more
22 than two shall be members of the same political party.

§8-29A-4. Removal of members.

1 The county court shall have the power to remove any
2 member of the authority for consistent violations of any
3 provisions of this article, for reasonable cause which shall
4 include but not be limited to a continued failure to attend
5 meetings of the authority, failure to diligently pursue the

6 objectives for which the authority was created or failure
7 to perform any other duty prescribed by law, or for any
8 misconduct in office: *Provided*, That if the county court
9 desires to remove a member of the authority it shall notify
10 said member in writing, stating the reasons for the county
11 court desiring said removal. Within ten days of the receipt
12 by the member of the authority of the written notice of re-
13 moval, said member, if he so desires, may request a hear-
14 ing before the county court, and any such hearing shall be
15 held within ten days of the member's request for said
16 hearing.

§8-29A-5. Substitution of members.

1 If any member of the authority shall die, resign or be
2 removed, or for any other reason cease to be a member of
3 the authority, the county court shall within thirty days
4 appoint another person to fill the unexpired portion of the
5 term of such member.

§8-29A-6. Qualification of members of the authority.

1 All members of the board of the authority shall be cit-
2 izens of West Virginia and residents of the county.

§8-29A-7. Members to be paid expenses; members not to be personally interested in contracts or property controlled by board; conflicts of interest.

1 The members of said board shall receive no compensa-
2 tion for their services but they shall be entitled to reim-
3 bursement for all reasonable and necessary expenses
4 actually incurred in the performance of their duties as
5 members of said board. They shall not be personally in-
6 terested, directly or indirectly, in any contract entered
7 into by said board, or hold any remunerative position in
8 connection with the establishment, construction, improve-
9 ment, extension, development, maintenance or operation
10 of any of the property under their control as members of
11 said board.

§8-29A-8. Authority to be a public corporation.

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

§8-29A-9. Powers.

1 A county airport authority is hereby given power and
2 authority as follows:

3 (1) To make and adopt all necessary bylaws, rules and
4 regulations for its organization and operations not incon-
5 sistent 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, and generally to
11 do any and all things necessary or convenient for the pur-
12 pose of acquiring, equipping, constructing, maintaining,
13 improving, extending, financing and operating a public
14 airport, including the development of an industrial park
15 in the same general area;

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, devises, 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 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 ne-
30 gotiable notes, revenue bonds, debentures and other evi-
31 dences of indebtedness therefor, and give such security
32 therefor as shall be requisite, including giving a mortgage
33 or deed of trust on its airport properties and facilities in
34 connection with the issuance of bonds;

35 (9) To raise funds by the issuance and sale of revenue
36 bonds or refunding bonds in the manner provided by the
37 applicable provisions of article sixteen of this chapter, it
38 being hereby expressly provided that, for that purpose, a
39 county airport authority shall be treated as a municipality
40 or board as those terms are used in said article sixteen;

41 (10) To acquire, construct, establish, equip, maintain

42 and operate, within a reasonable distance of the airport,
 43 a waterworks, a sewerage system or a combined water-
 44 works and sewerage system for its own use and for the
 45 use of any person, and to finance the same by the issuance
 46 of revenue bonds as provided in this article: *Provided,*
 47 *however,* That no existing waterworks or sewage system,
 48 or any part thereof, may be acquired without the prior
 49 consent and approval of the public service commission;
 50 (11) To establish, charge and collect reasonable fees
 51 and charges for services or for the use of any part of its
 52 property or facilities, or for both services and such use;
 53 and
 54 (12) To expend its funds in the execution of the
 55 powers and authority herein given.

§8-29A-10. Indebtedness of the authority.

1 The authority may incur any proper indebtedness and
 2 issue any obligations and give any security therefor which
 3 it may deem necessary or advisable in connection with
 4 carrying out its purposes as hereinbefore mentioned. No
 5 statutory limitation with respect to the nature or amount
 6 of indebtedness which may be incurred by municipalities

7 or other bodies shall apply to indebtedness of the au-
8 thority. No indebtedness of any nature of the authority
9 shall constitute an indebtedness of the county court, nor
10 of the county, or a charge against any property of the
11 county. No obligation incurred by the authority shall give
12 any right against any member of the county court or any
13 member of the board of the authority. The rights of
14 creditors of the authority shall be solely against the au-
15 thority as a corporate body and shall be satisfied only out
16 of property held by it in its corporate capacity.

§8-29A-11. Agreements in connection with obtaining funds.

1 The authority may, in connection with obtaining funds
2 for its purposes, enter into any agreement with any per-
3 son, including the federal or state government, or any
4 agency or subdivision thereof, containing such provisions,
5 covenants, terms and conditions as the authority may
6 deem advisable.

§8-29A-12. Authority to have right to eminent domain.

1 Whenever it shall be deemed necessary by the authority
2 in connection with the exercise of its powers herein con-
3 ferred, to take or acquire any lands, structures or build-

4 ings or other rights, either in fee or as easements, for the
5 purposes herein set forth, the authority may purchase the
6 same directly or through its agents from the owner or
7 owners thereof or the authority may exercise the power
8 of eminent domain in the manner provided for condem-
9 nation proceedings in chapter fifty-four of this code, and
10 such purposes are hereby declared to ^{be} ~~the~~ public uses for
11 which private property may be taken or damaged: *Pro-*
12 *vided*, That such right of eminent domain shall not apply
13 to the development of an industrial park.

**§8-29A-13. Property, bonds and obligations of authority
exempt from taxation.**

1 The authority shall be exempt from the payment of any
2 taxes or fees to the state or any subdivisions thereof or
3 any municipalities or to any officer or employee of the
4 state or of any subdivision thereof or of any municipalities.
5 The property of the authority shall be exempt from all
6 local and municipal taxes. Bonds, notes, debentures and
7 other evidence of indebtedness of the authority are de-
8 clared to be issued for a public purpose and to be public
9 instrumentalities, and, together with interest thereon,
10 shall be exempt from taxes.

§8-29A-14. County commissioners authorized to convey present airport properties and facilities to the authority.

1 Notwithstanding any other provision of law to the con-
2 trary, the county court of a county is hereby authorized
3 to convey to the authority, the present airport property
4 owned by the county, if any, situate in the county, to-
5 gether with all the appurtenances and facilities therewith,
6 such conveyance to be without consideration or for such
7 price and upon such terms and conditions as the county
8 court shall deem proper.

§8-29A-15. Authority may lease airport and facilities.

1 Each authority may lease its airport and all or any
2 part of the appurtenances and facilities therewith to any
3 available lessee, subject to all constitutional and statutory
4 limitations with respect thereto, at such rental and upon
5 such terms and conditions as the authority shall deem
6 proper. Such leases shall be for some purpose associated
7 with airport activities, and shall be subordinate to any
8 mortgage or deed of trust executed by the authority.

§8-29A-16. Disposition of surplus of authority.

1 If the authority should realize a surplus, whether from
2 operating the airport or leasing it for operation, over and

3 above the amount required for the maintenance, improve-
4 ment and operation of the airport and for meeting all re-
5 quired payments on its obligations, it shall set aside such
6 reserve for future operations, improvements and con-
7 tingencies as it shall deem proper and shall then apply
8 the residue of such surplus, if any, to the payment of any
9 recognized and established obligations not then due; and
10 after all such recognized and established obligations have
11 been paid off and discharged in full, the authority shall,
12 at the end of each fiscal year, set aside the reserve for
13 future operations, improvements and contingencies, as
14 aforesaid, and then pay the residue of such surplus, if
15 any, to the county court, to be used by the county court
16 for general county purposes.

§8-29A-17. Duty of county assessor; contribution in lieu of taxes.

1 It shall be the duty of the county assessor on the first
2 day of July of each year to ascertain what portion of the
3 real and personal property of the authority, if any, is de-
4 voted to use as an industrial park and to appraise such
5 property as if taxable. The assessor shall likewise deter-
6 mine the tax which would be levied upon such property

7 if it were taxable. On the first day of August of the year
8 following such determination and the first day of Feb-
9 ruary thereafter, the authority shall pay unto the sheriff
10 of the county a sum of money equal to that which would
11 have been due if the property were taxable, which sums
12 shall be distributed by the sheriff as if such sums were
13 tax receipts.

**§8-29A-18. Contributions to authority by the county court and
others; funds and accounts of the authority.**

1 Contributions may be made to the authority from time
2 to time by the county court and by any persons that shall
3 desire so to do. All such funds and all other funds re-
4 ceived by the authority shall be deposited in such bank
5 or banks as the authority may direct and shall be with-
6 drawn therefrom in such manner as the authority may
7 direct. The authority shall keep strict account of all its
8 receipts and expenditures and shall each quarter make a
9 quarterly report to the county court containing an
10 itemized account of its receipts and disbursements during
11 the preceding quarter. Such report shall be made within
12 sixty days after the termination of the quarter. Within
13 sixty days after the end of each fiscal year, the authority

14 shall make an annual report containing an itemized
15 statement of its receipts and disbursements for the pre-
16 ceding year, and such annual report shall be published
17 as a Class II-0 legal advertisement in compliance with
18 the provisions of article three, chapter fifty-nine of this
19 code, and the publication area for such publication shall
20 be the county. The books, records and accounts of the
21 authority shall be subject to audit and examination by
22 the office of the state tax commissioner of West Virginia
23 and by any other proper public official or body in the
24 manner provided by law.

§8-29A-19. Full-time employees of the authority to be public employees.

1 Any person who serves regularly as an employee, full
2 time, on a salary basis, whose tenure is not restricted as to
3 temporary or provisional appointment, in the service of,
4 and whose compensation is payable in whole or in part
5 by the authority, shall be deemed to be a public employee
6 and shall be subject to any and all applicable provisions
7 of law relating thereto, including but not limited to the
8 workmen's compensation act and the West Virginia pub-
9 lic employees insurance act.

§8-29A-20. Dissolution of authority.

1 The authority may at any time pay off and discharge
2 in full all of its indebtedness, obligations and liabilities,
3 convey the airport properties, appurtenances and facilities
4 to the county court and be dissolved. Before making such
5 conveyance of its properties, the authority shall give
6 notice of its intention to do so and of its intention to be
7 dissolved, and said notice shall be published as a Class
8 I-0 legal advertisement in compliance with the provisions
9 of article three, chapter fifty-nine of this code, and the
10 publication area for such publication shall be the county.
11 Affidavits from the publishers of the newspapers showing
12 such publication shall be filed with the county court
13 before the deed conveying said properties is delivered.
14 Any funds remaining in the hands of the authority at the
15 time of the conveyance of said properties shall be by the
16 authority paid over to the county court to be used by
17 it for purposes in connection with said airport. Upon
18 the payment of its indebtedness, obligations and liabilities,
19 the publishing of the notices aforesaid, the conveyance of
20 its properties, and the paying over to the county court

21 of any funds remaining in its hands, the authority shall
22 cause a certificate showing its dissolution to be executed
23 under its name and seal and to be recorded in the office
24 of the clerk of the county court and thereupon its dissolu-
25 tion shall be complete.

§8-29A-21. Liberal construction of article.

1 It is the purpose of this article to provide for the
2 acquisition, construction, improvement, extension, main-
3 tenance and operation of a public airport and related
4 facilities in a prudent and economical manner, and this
5 article 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 article are in addition to and not in derogation of any
9 power existing in the county court of a county under any
10 constitutional or statutory provisions which it may now
11 have, or may hereafter acquire.

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

Frederic M. Beale
Chairman Senate Committee

Phyllis J. Rutledge
Chairman House Committee

Originated in the House.

Takes effect from passage.

John W. Thayer
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

Edw. Boutwell
President of the Senate

Lewis F. McMane
Speaker House of Delegates

The within *approved* this the *16th*
day of *November*, 1971.

Arch A. Shaver, Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 11/9/71

Time 1:10 p.m.

RECEIVED

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OFFICE OF
SECRETARY OF STATE
STATE HOUSE, BOULDER