

# WEST VIRGINIA LEGISLATURE

## 2022 REGULAR SESSION

### ENROLLED

### Committee Substitute

for

### House Bill 4492

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Passed March 12, 2022; in effect from passage.]

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SECRETARY OF STATE

HB 4492

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1 AN ACT to repeal §17-16B-1, §17-16B-2, §17-16B-3, §17-16B-5, §17-16B-6, §17-16B-7, §17-  
2 16B-7a, §17-16B-7b, §17-16B-8, §17-16B-9, §17-16B-10, §17-16B-11, §17-16B-12, §17-  
3 16B-13, §17-16B-14, §17-16B-15, §17-16B-16, §17-16B-17, §17-16B-18, §17-16B-19,  
4 §17-16B-20, §17-16B-21, and §17-16B-22 of the Code of West Virginia, 1931, as  
5 amended; to repeal §17-16C-1, §17-16C-2, §17-16C-3, and §17-16C-5 of the Code of  
6 West Virginia, 1931, as amended; to repeal §29-2A-1, §29-2A-2, §29-2A-3, §29-2A-4,  
7 §29-2A-5, §29-2A-6, §29-2A-7, §29-2A-8, §29-2A-10, §29-2A-11, §29-2A-11a, §29-2A-  
8 11b, §29-2A-11c, §29-2A-11d, §29-2A-11e, §29-2A-11f, §29-2A-12, §29-2A-13, §29-2A-  
9 14, and §29-2A-20 of said code; to repeal §29-18-1, §29-18-2, §29-18-3, §29-18-4, §29-  
10 18-4a, §29-18-5, §29-18-6, §29-18-7, §29-18-8, §29-18-9, §29-18-10, §29-18-11, §29-18-  
11 12, §29-18-13, §29-18-14, §29-18-15, §29-18-16, §29-18-17, §29-18-18, §29-18-19, §29-  
12 18-20, §29-18-21, §29-18-22, §29-18-23, §29-18-24, and §29-18-25 of said code; and to  
13 amend said code by adding thereto a new article, designated §17-16F-1, §17-16F-2, §17-  
14 16F-3, §17-16F-4, §17-16F-5, §17-16F-6, §17-16F-7, §17-16F-8, §17-16F-9, §17-16F-10,  
15 §17-16F-11, §17-16F-12, §17-16F-13, §17-16F-14, §17-16F-15, §17-16F-16, §17-16F-  
16 17, §17-16F-18, §17-16F-19, §17-16F-20, §17-16F-21, §17-16F-22, §17-16F-23, §17-  
17 16F-24, §17-16F-25, §17-16F-26, §17-16F-27, §17-16F-28, §17-16F-29, §17-16F-30,  
18 §17-16F-31, §17-16F-32, §17-16F-33, and §17-16F-34, all relating to creating the Division  
19 of Multimodal Transportation and combining the powers and duties and eliminating certain  
20 references to the Public Port Authority, the West Virginia State Rail Authority and the state  
21 Aeronautics Commission; providing for legislative findings and creation of the division;  
22 transferring employees, equipment, assets, liabilities, contracts, agreements, functions  
23 and duties to the division or its sections; providing for all property currently held by the  
24 Public Port Authority, the West Virginia State Rail Authority and the state Aeronautics  
25 Commission to be transferred to the division; authorizing the Secretary of the Department  
26 of Transportation to appoint the commissioner; establishing general powers and duties of  
27 the commissioner; defining terms; establishing the powers and duties of the division

28 generally; requiring the division to promote, supervise and support safe, adequate and  
29 efficient transportation, preserve rail, water and airway facilities and promote economic  
30 development and tourism; authorizing division to work cooperatively with similar entities  
31 within and without the state; providing for siting, development and operation of facilities;  
32 authorizing employment of trained and qualified staff and consultants and compensating  
33 therefor; providing the right to enter into contracts and agreements; authorizing acquisition  
34 of various types and interests in property to be held in the name of the state; authorizing  
35 use of eminent domain; authorizing acquisition and disposal of property by various means;  
36 authorizing interagency cooperation; authorizing division to act on behalf of the state in  
37 planning, financing, development, construction and operation of port, railroad and  
38 aeronautic projects or facilities; reporting annually to Legislature on status of projects,  
39 operations, finances and related information; authorizing study and assessment of state  
40 transportation needs; authorizing use of various financing options including issuing  
41 revenue bonds and receipt of grants and loans; authorizing division to make grants and  
42 loans to governmental agencies and persons for multimodal transportation projects;  
43 permitting collection of reasonable fees and charges connected to making and servicing  
44 loans, notes, bonds and other obligations; granting rule-making authority to the division;  
45 continuing all rules, policies and orders of the combined entities until revised and reissued  
46 by the division; requiring strategic plan and reports to the Governor and the Legislature;  
47 requiring collection and analysis of shipping through state ports; providing for  
48 confidentiality of collected information and providing criminal penalty for violation;  
49 providing that division employees may not have direct or indirect financial interest in  
50 contracts, sale of property of the division and providing criminal penalty for violation;  
51 providing that activities of division are for public purpose; authorizing the division to use  
52 certain property or facilities of a public utility, common carrier, public road or railroad for  
53 certain public projects; requiring the division to relocate any such property or facilities;  
54 providing for rules regarding relocation or removal of railroad or public utility located on

55 division property; requiring the division to pay for said relocation or removal; encouraging  
56 participation of private enterprise in construction and operation of facilities; authorizing  
57 lease back to division; authorizing development of foreign trade zones, free trade zones,  
58 ports of entry and customs zones; providing for specific duties related to port projects;  
59 authorizing the division to act on behalf of the state in developing, operating, improving  
60 and maintaining ports; authorizing the division to coordinate and cooperate with other port  
61 entities; creating the West Virginia Multimodal Operations Fund and transference of funds  
62 and liabilities of the West Virginia Public Port Authority Operations Fund; providing for  
63 specific duties related to rail projects; authorizing the exercise of powers necessary to  
64 qualify for federal subsidies; authorizing various means to carry out rail projects that are  
65 consistent with state plan with other entities; providing authority for the division to  
66 establish, fund, construct, reconstruct, acquire, repair, replace, operate, maintain and  
67 make available to other entities railroad projects; providing that research and development  
68 of railroads may be conducted; providing that contracts may be entered into to acquire  
69 various rolling stock, equipment or trackage and providing the requirements therefor;  
70 providing for the authority to enter into agreements that are beneficial to railroad projects  
71 notwithstanding other code provisions, including the authority to reject bids; authorizing  
72 division to purchase various types of insurance; authorizing the collection of fees for use  
73 of rail projects; providing for the administration and coordination of a state plan, including  
74 the distribution of federal subsidies; providing for investigation, research, promotion and  
75 development with public participation; authorizing the provision of fiscal assurances and  
76 adoption of accounting procedures necessary to continue subsidies; authorizing  
77 compliance with applicable federal regulations; authorizing all actions necessary to  
78 maximize federal assistance for rail subsidies; providing powers necessary to coordinate  
79 with the Maryland Transit Administration for continued operation in the state, including  
80 negotiation and contracting authority; providing that any commuter rail operation  
81 agreement will meet certain service standards; providing that any track access fees to be

82           paid pursuant to the agreement shall be paid from the West Virginia Commuter Rail  
83           Access Fund; authorizing sale or transfer of interest in rail property with federal approval  
84           when required; authorizing assistance to entities seeking federal railroad service  
85           certification, including the provision of any necessary assurances or guarantees;  
86           authorizing division to retain attorney or others to title ownership of rail properties within  
87           the state; requiring rail properties offered for sale within the state to be offered first to the  
88           state; providing that division may acquire railroad rights in other states and may cooperate  
89           with other states in so purchasing any rail properties; providing for the division to give  
90           consideration to county or municipality interest in acquiring abandoned property interest  
91           and providing for the division to acquire any such abandoned property for subsequent  
92           conveyance to a county or municipality; authorizing the division to apply for and utilize  
93           federal funds or loans in carrying out its purposes of this article; authorizing the purchase  
94           of any railroad rolling stock, equipment and machinery necessary for the operation and  
95           maintenance of state rail properties and authorizing contracts with the Division of  
96           Highways for maintenance or purchase of vehicles; authorizing maintenance, rebuilding  
97           or relocation of state rail properties and authorizing expenditures for the modernization,  
98           rebuilding and relocation of any rail properties owned by the state or private carrier;  
99           providing for contracting with domestic or foreign entities to provide, maintain or improve  
100          rail transportation service on state rail properties; providing for transfer of rail properties to  
101          other entities within the state when permitted by the Governor; authorizing the division to  
102          resolve conflicts when multiple entities want to utilize the same rail property; providing for  
103          proceeds from the sale of state rail property to be deposited in Railroad Maintenance  
104          Fund; terminating Railroad Maintenance Authority Fund and creating a Railroad  
105          Maintenance Fund for proceeds and expenditures related to division's purpose;  
106          authorizing expenditure from any fund for study of proposed rail projects and use of funds  
107          from Railroad Maintenance Fund for study and engineering costs; authorizing the  
108          issuance of railroad maintenance revenue bonds and notes for costs of rail projects,

109 including issuance of renewal notes and bond refund, with aggregate amount of all issues  
110 of bonds and notes outstanding at one time not exceeding amount capable of being  
111 serviced by revenues received; providing that issues of bonds or notes are negotiable  
112 instruments and are obligations of the division and are payable out of the revenues which  
113 are pledged for such payment; providing for maturity date, terms of execution, sale,  
114 redemption and delivery; authorizing the establishment of various conditions necessary to  
115 secure sufficient funds to protect bonds or notes; providing that person executing bonds  
116 or notes is not personally liable therefor; providing for trust agreement to secure bonds  
117 issued by division and creating conditions therefor, not including mortgage of any rail  
118 project; allocating expenses of bond issuance or trust agreement to rail projects; providing  
119 for civil action for bondholders seeking to enforce rights granted; providing that bonds are  
120 payable from division revenues and are not a debt of state or political subdivision;  
121 restricting division from incurring debt on behalf of state or political subdivision; authorizing  
122 use of proceeds from bonds to carry out division's powers and prohibiting commingling  
123 with other funds; providing for the investment of excess funds by West Virginia State Board  
124 of Investments; authorizing division to collect rents or revenues for use of rail projects;  
125 providing for cooperation with other governmental agencies to effect acquisition of rail  
126 project or bond issuance; authorizing division to maintain rail projects in good repair;  
127 providing that railroad maintenance bonds are lawful investments for various entities;  
128 continuing West Virginia Commuter Rail Access Fund which is administered by division  
129 commissioner; requiring division to establish a state rail plan that complies with federal  
130 requirements for funding; providing specific powers and duties for director of public transit;  
131 designation of public transit as the agency of the state responsible for administering all  
132 federal and state programs related to public transportation; providing for assistance and  
133 cooperation of other state agencies with all multimodal sections; providing for specific  
134 duties related to aeronautics projects; authorizing division to advance development of  
135 aeronautics in cooperation with municipalities; authorizing rules necessary for public

136 safety related to airports and aeronautics; authorizing division to fund grants for public  
137 airport authorities; authorizing division to receive federal funding to support airports or air  
138 navigation facilities; providing for procedures and conditions for use of federal funds;  
139 requiring a federal license to operate an aircraft; allowing for the use of state and municipal  
140 facilities and services; disposing of fees collected under this code section and providing a  
141 severability clause.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 17. ROADS AND HIGHWAYS.**

### **ARTICLE 16B. PUBLIC PORT AUTHORITY.**

#### **§17-16B-1. Creation of authority.**

1 [Repealed].

#### **§17-16B-2. Board of directors — Members, officers, qualifications, terms, oath, compensation, quorum and delegation of power.**

1 [Repealed].

#### **§17-16B-3. Executive director; appointment; powers and duties; compensation.**

1 [Repealed].

#### **§17-16B-5. Definitions.**

1 [Repealed].

#### **§17-16B-6. Powers and duties of authority.**

1 [Repealed].

#### **§17-16B-7. Special West Virginia public port authority operations fund.**

1 [Repealed].

#### **§17-16B-7a. Special Railroad and Intermodal Enhancement Fund; purposes.**

1 [Repealed].

#### **§17-16B-7b. Study of feasibility intermodal facility at Prichard, West Virginia.**

1 [Repealed].

**§17-16B-8. Designation of local port authority districts, powers and duties; plan for development.**

1 [Repealed].

**§17-16B-9. Construction and operation of facilities by private enterprise; leasing of facilities by port authority.**

1 [Repealed].

**§17-16B-10. Foreign trade zones; free trade zones; ports of entry and customs zones.**

1 [Repealed].

**§17-16B-11. Study of feasibility of establishment of export trading company.**

1 [Repealed].

**§17-16B-12. Division of tourist trains and transportation; duties.**

1 [Repealed].

**§17-16B-13. Disclaimer of any liability of state of West Virginia.**

1 [Repealed].

**§17-16B-14. Prohibition on funds inuring to the benefit of or being distributable to directors, employees, officers or private persons; prohibition against certain financial interests; criminal penalties.**

1 [Repealed].

**§17-16B-15. Port revenue bonds — Generally.**

1 [Repealed].

**§17-16B-16. Public port revenue bonds — Trust agreements.**

1 [Repealed].

**§17-16B-17. Tolls, rents, fees, charges and revenues.**

1 [Repealed].

**§17-16B-18. Trust funds.**

1 [Repealed].

**§17-16B-19. Remedies.**

1 [Repealed].

**§17-16B-20. Exemption from taxes.**

1 [Repealed].

**§17-16B-21. Preliminary expenses.**

1 [Repealed].

**§17-16B-22. Public port revenue refunding bonds — Generally.**

1 [Repealed].

**ARTICLE 16C. DIVISION OF PUBLIC TRANSIT.**

**§17-16C-1. Creation of division.**

1 [Repealed].

**§17-16C-2. Designation of department.**

1 [Repealed].

**§17-16C-3. Powers and duties of the division.**

1 [Repealed].

**§17-16C-5. Assistance of other state agencies.**

1 [Repealed].

**ARTICLE 16F. WEST VIRGINIA DIVISION OF MULTIMODAL TRANSPORTATION**

**FACILITIES.**

**§17-16F-1. Legislative findings and creation of division.**

1 (a) The Legislature finds and declares that there is a need to streamline the execution and  
2 implementation of the state's multimodal transportation goals and reduce related costs by  
3 consolidating existing multimodal authorities to a single division, known as the West Virginia  
4 Division of Multimodal Transportation Facilities, under the Secretary of Transportation pursuant  
5 to the provisions of chapter 5F of this code. The Department of Transportation, through the West

6 Virginia Division of Multimodal Transportation Facilities, is designated as the agency of this state  
7 responsible for administering all federal and state programs related to public ports, railroads,  
8 aeronautics, airports, and air navigation facilities.

9 (b) On July 1, 2022, the Public Port Authority, the West Virginia State Rail Authority,  
10 Division of Public Transit, and the West Virginia State Aeronautics Commission are reestablished,  
11 reconstituted, and continued as the West Virginia Division of Multimodal Transportation Facilities,  
12 an agency of the state. The purpose of the division is to administer all federal and state programs  
13 related to public ports, railroad transportation and commerce, public transit, aeronautics, airports,  
14 and air navigation facilities in the State of West Virginia, and thereby to encourage and facilitate  
15 growth and economic development opportunities utilizing such transport facilities. The powers  
16 and duties heretofore imposed upon the Public Port Authority, the West Virginia State Rail  
17 Authority, Division of Public Transit, and the West Virginia State Aeronautics Commission are  
18 transferred to and imposed upon the West Virginia Division of Multimodal Transportation Facilities  
19 in the manner prescribed by this article.

20 (c) It is the intent of this article to consolidate into the West Virginia Division of Multimodal  
21 Transportation Facilities those entities and employees performing functions which will be  
22 facilitated by their consolidation. The Department of Transportation shall provide appropriate  
23 office locations necessary to fulfill the functions of the division.

24 (d) On the effective date of this article, all real property interests, vehicles, equipment  
25 contracts or agreements, interests under any existing insurance policy, and records belonging to  
26 the Public Port Authority, the West Virginia State Rail Authority, the Division of Public Transit, and  
27 the West Virginia State Aeronautics Commission shall be transferred to the West Virginia Division  
28 of Multimodal Transportation Facilities. Any state funds, special revenue funds, and all accounts  
29 created for the benefit or use of the Public Port Authority, the West Virginia State Rail Authority,  
30 the Division of Public Transit, and the West Virginia State Aeronautics Commission are

31 transferred to the West Virginia Division of Multimodal Transportation Facilities in accordance with  
32 the provisions of this article.

**§17-16F-2. Secretary's Powers and duties.**

1 The Secretary of the Department of Transportation or his or her designee shall be the  
2 chief operating officer of the division who shall:

3 (1) Administer the operations of the division, consistent with the provisions of this article,  
4 by allocating the functions, activities, and personnel of the division among the various sections;

5 (2) Coordinate with the Secretary of the Department of Economic Development and any  
6 other applicable departments or agencies to facilitate economic development utilizing  
7 transportation facilities;

8 (3) Supervise payrolls and audit payrolls, reports, or transactions for conformity with the  
9 provisions of this article;

10 (4) Plan, evaluate, administer, and implement multimodal transportation programs and  
11 policies in the state as set forth in this article;

12 (5) Utilize professional staff within the Department of Transportation to assist in the  
13 operations of the division and authorize reimbursement therefor;

14 (6) Assist the Governor in multimodal transportation matters; and

15 (7) Make a report by June 30, and every year thereafter, to the Governor and all other  
16 special or periodic reports as may be required and post all reports on its website. Reports to the  
17 Legislature are not required; however, upon request of any member or committee, a report must  
18 be provided and may be provided electronically. Paper copies of any report shall be provided  
19 upon request.

**§17-16F-3. Definitions.**

1 As used in this article, unless the context indicates another or different meaning or intent:

2 "Aeronautics" means the art and science of flight, including, but not limited to,  
3 transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft

4 power plants, and accessories, including the repair, packing, and maintenance of parachutes;  
5 and the design, establishment, construction, extension, operation, improvement, repair, or  
6 maintenance of airports or other air navigation facilities.

7 "Aircraft" means any contrivance now known, or hereafter invented, used, or designed for  
8 navigation of or flight in the air whether manned or unmanned.

9 "Air navigation" means the operation or navigation of aircraft in the air space over this  
10 state or upon any airport within this state.

11 "Air navigation facility" means any facility other than one owned or controlled by the federal  
12 government used in, available for use in, or designed for use in aid of air navigation, including  
13 airports, and any structures, mechanisms, lights, beacons, markers, communications system, or  
14 other instrumentalities or devices used or useful as an aid or constituting an advantage or  
15 convenience to the safe taking off, air navigation, and landing of aircraft or the safe and efficient  
16 operation or maintenance of an airport, and any combination of any or all of such facilities.

17 "Airport" means any area of land or water which is used, or intended for use, for the landing  
18 and takeoff of aircraft and any appurtenant areas which are used, or intended for use, for airport  
19 buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities  
20 located thereon.

21 "Bond" means a revenue bond or rate issued by the division to effectuate the intents and  
22 purposes of this article.

23 "Commissioner" means the chief operating officer and administrative head of the  
24 Multimodal Division, when such person is appointed by the Secretary of Transportation.

25 "Commuter rail" means a transit mode that is an electric or diesel propelled railway for  
26 urban passenger train service consisting of local short distance travel operating between a central  
27 city and adjacent suburbs. Service must be operated on a regular basis by or under contract with  
28 a transit operator for the purpose of transporting passengers within urbanized areas or between  
29 urbanized areas and outlying areas. The rail service, using either locomotive-hauled or self-

30 propelled railroad passenger cars, is generally characterized by multi-trip tickets, specific station-  
31 to-station fares, or railroad employment practices and usually has only one or two stations in the  
32 central business district. It does not include heavy rail, rapid transit, light rail, or streetcar transit  
33 service. Intercity rail service is excluded except for that portion of service operated by or under  
34 contract with a public transit agency for predominantly commuter services. Only the predominantly  
35 commuter service portion of an intercity route is eligible for inclusion when determining commuter  
36 rail route miles.

37 "Development plan" means a document which details the overall strategy of the division  
38 for the proper planning and sustainable development of an area and consists of a written  
39 statement and accompanying maps.

40 "Division" means the West Virginia Division of Multimodal Transportation Facilities.

41 "Heavy rail" means a transit mode that is an electric railway with the capacity for a heavy  
42 volume of traffic. It is characterized by high speed and rapid acceleration passenger rail cars  
43 operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other  
44 vehicular and foot traffic are excluded, sophisticated signaling and high platform loading.

45 "Income" means and includes all money accruing to the division or part thereof from any  
46 source.

47 "Intermodal transportation" means the successive transport of goods or passengers using  
48 more than one mode of transportation, including air, rail, ship, or roadway.

49 "Light rail" means a transit mode that typically is an electric railway with a light volume  
50 traffic capacity. It is characterized by passenger rail cars operating singly or in short, usually two-  
51 car trains, on fixed rails in shared or exclusive rights-of-way, low- or high-platform loading, and  
52 vehicle power drawn from an overhead electric line via a trolley or a pantograph.

53 "Multimodal transportation" means the consideration or connection of various modes of  
54 transportation, including air, rail, ship, or roadway.

55           “Municipality” means any county, city, town, village, or other political subdivision of this  
56 state.

57           “Municipal” means pertaining to a municipality.

58           “Operation fund” means the special West Virginia Public Port Operation Fund as created  
59 by §17-16F-12 of this code.

60           “Operation of aircraft” or “operate aircraft” means the use, navigation, or piloting of aircraft  
61 in the airspace over this state or upon the ground within this state.

62           “Owner” means and includes all individuals, co-partnerships, associations, corporations,  
63 companies, transportation companies, public service corporations, the United States or any of its  
64 agencies or instrumentalities, common carriers by rail and railroad companies having any title or  
65 interest in any rail properties authorized to be acquired, leased, or used by this article.

66           “Person” means any individual, firm, corporation, partnership, company, foreign or  
67 domestic association, including railroads, joint stock association, or body politic and includes any  
68 trustee, receiver, assignee, or other similar representative.

69           “Port” or “public port” means ports, airports, wayports, terminals, buildings, roadways,  
70 rights-of-way, rails, rail lines, facilities for rail, water, highway or air transportation, and such  
71 structures, equipment, facilities, or improvements as are necessary.

72           “Predominantly commuter services” means that for any given trip segment (i.e., distance  
73 between two stations), more than 50 percent of the average daily ridership travels on the train at  
74 least three times a week.

75           “Public port development” or “public port project” means any activities which are  
76 undertaken with respect to public ports.

77           “Rail properties” means assets or rights owned, leased, or otherwise controlled by a  
78 railroad or other person which are used, or useful, in rail transportation service: *Provided*, That  
79 rail properties do not include any properties owned, leased or otherwise controlled by a railroad  
80 not in reorganization, unless it consents to such properties’ inclusion in the particular transaction.

81 "Rail service" means both freight and passenger service.

82 "Railroad" means a common carrier by railroad as defined in Section 10102 of the  
83 Interstate Transportation Act (49 U.S.C. § 10102).

84 "Railroad project" means the initiation, acquisition, construction, maintenance, repair,  
85 equipping, or operation of rail properties or rail service, or the provisions of loans or grants to or  
86 with government agencies, or to persons for such purposes, by the division.

87 "Wayport" means an airport used primarily as a location at which passengers and cargo  
88 may be transferred between connecting flights of air carriers engaged in air commerce, but also  
89 allows passengers to initiate and terminate flights and shipments of cargo to originate and  
90 terminate at the airport or similar type facility.

91 "West Virginia Commuter Rail Access Fund" means the special West Virginia Commuter  
92 Rail Access Fund created by §17-16F-27 of this code.

93 "West Virginia Railroad Maintenance Fund" means the West Virginia Railroad  
94 Maintenance Fund created by §17-16F-17 of this code.

**§17-16F-4. Powers and duties of division.**

1 The division shall perform all acts necessary and proper to carry out the purposes of this  
2 article and is granted the following powers and duties:

3 (1) To promote, supervise, and support safe, adequate, and efficient transportation  
4 throughout the state;

5 (2) To preserve roadway, railroad, waterway, and airway facilities,

6 (3) To help facilitate economic development in this state utilizing transportation facilities;

7 (4) To meet and cooperate with similar divisions, authorities, or bodies of any of the several  
8 states contiguous with this state, whose purpose in their respective states is to establish an  
9 interstate or intermodal transportation network;

10 (5) To take all steps appropriate and necessary to effect siting, development, and  
11 operation of public ports, railroads, or airport facilities within the state;

12           (6) To employ managers, superintendents, and other sufficiently trained and qualified  
13 personnel and retain or contract with consulting engineers, financial consultants, accountants,  
14 attorneys, and other consultants and independent contractors when necessary to carry out the  
15 provisions of this article and fix their compensation or fees. All expenses are payable from the  
16 proceeds of revenue bonds or notes issued by the division, from revenues and funds appropriated  
17 for this purpose by the Legislature, or from grants from the federal government which may be  
18 used for such purpose;

19           (7) To make and enter into all contracts and agreements with any federal, state, county,  
20 municipal agency, or private entity and execute all instruments necessary or incidental to the  
21 performance of its duties and the execution of its powers including, but not limited to, the power  
22 to make contracts and agreements in accordance with the provisions set forth in this article;

23           (8) To acquire, purchase, lease, construct, own, hold, operate, maintain, equip, use, and  
24 control, by eminent domain or other means, any land, property, rights, franchises, easements,  
25 ports, and such terminals, buildings, roadways, rights-of-way, rails and such structures,  
26 equipment, facilities, any and every kind or character of motive powers and conveyances or  
27 appliances necessary or proper to carry goods, wares, and merchandise over, along, upon or  
28 through the railway, waterway or airway, or other conveyance of such transportation system,  
29 excluding pipelines or improvements, as are necessary or incident to carry out the provisions of  
30 this article, upon such terms and at such price as may be considered by it to be reasonable and  
31 to take title in the name of the state;

32           (9) To lease, sell, or otherwise dispose of real and personal property in the exercise of its  
33 powers and the performance of its duties as set forth in this article;

34           (10) To act on behalf of the state and to represent the state in the planning, financing,  
35 development, construction, and operation of any port, transit facility, railroad, or aeronautics  
36 project or any facility related to any such project, with the concurrence of the affected public

37 agency. Other state agencies and local governmental entities in this state shall cooperate to the  
38 fullest extent the division deems appropriate to effectuate the duties of the division;

39 (11) To act as agent for the United States of America, or any of its agencies, departments,  
40 corporations, or instrumentalities, in any manner coming within the purposes or powers of the  
41 division;

42 (12) To expend funds available for the purpose of studying any proposed railroad project,  
43 which may include consulting with engineers. All expenses incurred in conducting the study and  
44 necessary engineering shall be paid from the funds established in §17-16F-17 of this code;

45 (13) To report annually to the Legislature by December 31 of each year the status of  
46 projects, operations, financial condition, and other necessary information relating to the statewide  
47 multimodal transportation system and activities in accordance with this article and any report may  
48 be made electronically with paper copies provided upon request to any member of the Legislature;

49 (14) To meet with political subdivisions of the state to assess both specific and general  
50 transportation needs of the state in terms of transportation, as well as consider feasibility studies  
51 for the purpose of determining the best site locations for transportation centers, terminals,  
52 railroads, airports, ports and harbors, and foreign trade zones;

53 (15) To apply for and accept loans, grants or gifts of money, property, or service from the  
54 United States, any political subdivision, any public or private sources available, or any public or  
55 private lender or donor, to give such evidences of indebtedness as may be required and to permit  
56 the state Board of Investments to invest, as provided by this code, any funds received by the  
57 division pursuant to the provisions of this code;

58 (16) To make loans and grants, out of any appropriation made to the division by the  
59 Legislature or out of any funds at its disposal, to governmental agencies and persons for carrying  
60 out any multimodal transportation projects by any governmental agency or person in accordance  
61 with rules adopted under this article;

62 (17) To issue revenue bonds or request other appropriate state agencies to issue and  
63 administer revenue bonds to finance port, railroad, transit, or aeronautics projects;

64 (18) To collect reasonable fees and charges in connection with making and servicing  
65 loans, notes, bonds, obligations, commitments, and other evidence of indebtedness, and in  
66 connection with providing technical, consulting, and project assistance services; and

67 (19) To act, through the Department of Transportation, the division is hereby designated  
68 as the agency of this state responsible for administering all federal and state programs relating to  
69 public transportation and public transit facilities.

**§17-16F-5. Rules of division.**

1 (a) All rules promulgated by the Public Port Authority, the West Virginia State Rail  
2 Authority, the Division of Public Transit, or the West Virginia State Aeronautics Commission in  
3 effect at the time of creation of the division shall continue in full force and effect until revised or  
4 repealed by the division.

5 (b) The division, upon consultation with the Secretary of the Department of Transportation,  
6 may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code  
7 to implement the purposes of this article. The division may promulgate any necessary emergency  
8 rules to implement the provisions of this article pursuant to the provisions of §29A-3-15 of this  
9 code.

**§17-16F-6. Advisory Boards.**

1 (a) The division may convene advisory boards composed of members with subject-matter  
2 expertise and experience in the various modes of transportation under the purview of the division.

3 (b) Any such advisory board may advise the division on issues and assist the division as  
4 requested.

5 (c) The Secretary of the Department of Transportation shall be the chairperson of any  
6 such advisory board: *Provided*, That the secretary may appoint a designee to act in his or her  
7 stead at meetings.

8 (d) The Secretary of the Department of Transportation shall not receive any compensation  
9 for serving as chairperson. Any appointed members of a board shall receive the same  
10 compensation and expense reimbursement as is paid to members of the Legislature for their  
11 interim duties as recommended by the citizens legislative compensation commission and  
12 authorized by law for each day or substantial portion thereof engaged in the discharge of official  
13 duties. All compensation and expenses incurred shall be payable from funds applicable to the  
14 advisory board from the corresponding section within the division or from funds appropriated for  
15 such purpose by the Legislature and no liability or obligation shall be incurred by the section  
16 beyond the extent to which moneys are available from funds of the section or from such  
17 appropriations.

**§17-16F-7. Annual report.**

1 (a) The division shall prepare and file a comprehensive report annually by December 31  
2 with the Governor and the Joint Committee on Government and Finance setting forth the overall  
3 strategic plan for both short term and long term for goals and accomplishments of the purposes  
4 set forth in this article. Incidental to the development of a comprehensive strategic plan for  
5 multimodal transportation, the division shall analyze the intermodal shipment of products and  
6 passengers through the state, and shall be authorized to collect and analyze such information,  
7 which is maintained in the ordinary course of business by the person, firm, or corporation providing  
8 such information, pertaining to the transportation of products and passengers which has been  
9 moved by rail, water, or air to and from points within and without this state.

10 (b) Any such information and data supplied to the division shall be for exclusive use of the  
11 division. Such information is deemed confidential and is not subject to disclosure under the  
12 Freedom of Information Act, §29B-1-1 *et seq.* of this code. The division shall not publicly disclose  
13 this information and data to any person, firm, corporation, or agent. It is unlawful for any employee  
14 of this State to divulge or make known in any manner any information obtained pursuant to this  
15 subsection or disclose information concerning the personal or business affairs of any individual

16 or the business of any single firm or corporation, or disclose any particulars set forth or disclosed  
17 in any report or other information provided to the division. Violation of this subsection by any  
18 employee or former employee will result in a misdemeanor, and upon conviction thereof, is  
19 punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or  
20 by both, together with costs of prosecution.

**§17-16F-8. Financial interest in contracts prohibited; penalty.**

1 No employee of the division may be financially interested, directly or indirectly, in any  
2 contract of any person with the division, or in the sale of any property, real or personal, to or from  
3 the division. This section does not apply to contracts or purchases of property, real or personal,  
4 between the division and any governmental agency. Violation of this subsection by a division  
5 employee will result in a misdemeanor, and upon conviction thereof, is punishable by a fine of not  
6 more than \$1,000 or by imprisonment for not more than one year, or by both, together with costs  
7 of prosecution.

**§17-16F-9. Public purpose of activities; property of public utilities and common carriers.**

1 (a) The division is authorized to acquire any lands or interests pursuant to this article. The  
2 planning, acquisition, establishment, construction, improvement, maintenance, and operation of  
3 public port, railroad, transit, airport, or air navigation facilities, whether by the state separately or  
4 jointly with any municipalities and the exercise of any other powers granted to the division are  
5 declared to be public and governmental functions, exercised for a public purpose, and matters of  
6 public necessity. All lands and other property and privileges acquired and used by or on behalf of  
7 the state in the manner and for the purposes enumerated in this article are declared to be acquired  
8 and used for governmental purposes and as a matter of public necessity.

9 (b) The division shall take or distribute property or facilities belonging to any public utility  
10 or to a common carrier, which property or facilities are required for the proper and convenient  
11 operation of such public utility or common carrier, if provision is made for the restoration,  
12 relocation, or duplication of such property or facilities elsewhere at the cost of the division.

13 (c) The division shall make reasonable policies for the installation, construction,  
14 maintenance, repair, renewal, relocation, and removal of railroad or public utility facilities in, on,  
15 over or under any public port, railroad, airport, or air navigation facility project. Whenever the  
16 division determines that any such facilities installed or constructed in, on, over, or under property  
17 of the division pursuant to such policies must be relocated, the railroad or public utility owning or  
18 operating such facilities shall relocate or remove them in accordance with the order of the division.  
19 The cost and expenses of such relocation or removal, including the cost of installing such facilities  
20 in a new location, the cost of any lands or any rights or interests in lands and the cost of any other  
21 rights acquired to accomplish such relocation or removal, may be paid by the division as a part of  
22 the cost of such project.

23 (d) When relocating or removing facilities, the railroad or public utility owning or operating  
24 them, and its successors or assigns, shall maintain, and operate such facilities, with the necessary  
25 appurtenances in the new location in, on, over, or under the property of the division for as long a  
26 period and upon the same terms as it had the right to maintain and operate such facilities in their  
27 former location.

28 (e) In the condemnation of property authorized by this section, the division shall proceed  
29 in the name of the State in the manner provided by chapter 54 of this code.

**§17-16F-10. Construction and operation of facilities by private enterprise; leasing of  
facilities by division.**

1 (a) The division shall foster and encourage the participation of private enterprise in the  
2 development of railroad, waterway, transit, and airway facilities to the fullest extent it deems  
3 practicable in the interest of limiting the necessity of construction and operation of such facilities  
4 by the division. In this respect, the division shall advertise and solicit for the construction,  
5 operation, maintenance, or a combination thereof for any facility included in the development plan  
6 in accordance to plans, specifications, policies, or guidance prepared by the division.

7 (b) When the division considers it advisable and practicable, it may include certain facilities  
8 in the development plan to be installed by private enterprise and leased back to the division on

9 an installment contract or option to purchase: *Provided*, That any such lease back arrangement  
10 must be financially feasible, and any bonds or loans utilized to enter into such lease back  
11 arrangement shall be repayable in full from the expected rentals to be generated by such facility.

**§17-16F-11. Foreign trade zones; free trade zones; ports of entry and customs zones.**

1 The division shall develop, maintain, and operate foreign trade zones, free trade zones,  
2 ports of entry and customs zones under such terms and conditions as are or may be prescribed  
3 by federal law, and to keep foreign trade zone status for, and to assist in the applications for  
4 foreign trade zone status of political subdivisions and eligible private corporations under federal  
5 law.

**§17-16F-12. Special West Virginia Public Port Operations Fund; West Virginia Multimodal  
Division Operations Fund; other funds transferred to the Division of Multimodal  
Transportation.**

1 (a) The special West Virginia Public Port Authority Operations Fund created by prior  
2 enactment of §17-16B-7 of this code, is continued and shall be known as the West Virginia  
3 Multimodal Division Fund. The moneys in the fund shall only be expended to fulfill the provisions  
4 of this article. At the end of each fiscal year, any unexpended funds in this account shall be  
5 appropriated and available for expenditure for the subsequent fiscal year.

6 (b) Any fund utilized for any purpose within the State Aeronautics Commission, the  
7 Division of Public Transit, the Public Port Authority, or the State Rail Authority shall be transferred  
8 to the Division of Multimodal Transportation and continued until such time when the division  
9 determines a fund is unnecessary or may be better managed by combining certain funds to best  
10 serve the interests of the division and the public.

**§17-16F-13. Additional powers and duties of division related to railroad projects.**

1 (a) The secretary shall appoint necessary staff to oversee and manage the facilities and  
2 operations of the state rail section. Staff are covered by the Department of Transportation merit-  
3 based personnel system and the Classification and Compensation Career Plan. The division shall

4 facilitate railroad transportation and commerce within the state by exercising those powers of the  
5 state necessary to qualify for rail services continuation subsidies pursuant to the provisions of the  
6 federal Fixing America's Surface Transportation Act of 2015 and any future amendments and  
7 regulations from the federal government.

8 (b) The division shall carry out railroad projects or direct railroad projects to be carried out  
9 pursuant to a lease, sublease, or agreement with any person or governmental agency; shall make  
10 loans and grants to or with governmental agencies or to persons for railroad projects; and shall  
11 issue bonds of this state, payable solely from revenues, to pay the cost of such projects. The  
12 division will not undertake a railroad project unless it is consistent with any applicable  
13 development plans for railroad projects previously approved.

14 (c) The division shall establish, fund, construct, reconstruct, acquire, repair, replace,  
15 operate, and maintain railroads and railroad projects.

16 (d) The division shall make available the use of services of any railroad project to one or  
17 more persons, one or more governmental agencies or any combination.

18 (e) The division shall engage in research and development with respect to railroads.

19 (f) The division shall make and enter into contracts and agreements to acquire rolling stock  
20 or equipment with a value of \$1 million or less exempt from the provisions of §5A-3-1 *et seq.* of  
21 this code. The secretary may propose rules for promulgation for adoption by the Legislature in  
22 accordance with the provisions of §29A-3-1 *et seq.* of this code which set forth the methods for  
23 determining value of rolling stock or equipment to be purchased and any other rules as may be  
24 needed.

25 (1) Where rolling stock, equipment or trackage of the division is in need of immediate  
26 maintenance, repair, or reconstruction to avoid a cessation of its operations, economic loss, the  
27 inability to provide essential service to customers, or would otherwise be a danger to rail personnel  
28 or the public, the following requirements and procedures for entering into the contract or

29 agreement to remedy the condition shall be in lieu of those provided in §5A-3-1 *et seq.* of this  
30 code or any pursuant promulgated legislative rule:

31 (A) If the cost under the contract or agreement involves an expenditure of more than  
32 \$1,000, but \$50,000 or less, the division shall award the contract to or enter into the agreement  
33 with the lowest responsible bidder based upon at least three oral bids made pursuant to the  
34 requirements of the contract or agreement; or

35 (B) If the cost under the contract or agreement, other than one for compensation for  
36 personal services, involves an expenditure of more than \$50,000, but \$150,000 or less, the  
37 division shall award the contract to or enter into the agreement with the lowest responsible bidder  
38 based upon at least three bids, submitted to the division in writing on letterhead stationery, made  
39 pursuant to the requirements of the contract or agreement.

40 (2) Notwithstanding any provision of this code to the contrary, a contract or lease for the  
41 operation of a railroad project constructed and owned by the division or an agreement for  
42 cooperation in the acquisition or construction of a railroad project authorized by this article is not  
43 subject to the provisions of §5A- 3-1 *et seq.* of this code or any promulgated legislative rule and  
44 the division shall enter into the contract or lease or the agreement pursuant to negotiation and  
45 upon such terms and conditions and for a period of time as it finds to be reasonable and proper  
46 under the circumstances and in the best interests of proper operation or of efficient acquisition or  
47 construction of the railroad project.

48 (3) The division may reject any bids. A bond with good and sufficient surety, approved by  
49 the division, is required of all contractors in an amount equal to at least 50 percent of the contract  
50 price, conditioned upon the faithful performance of the contract.

51 (g) The division shall purchase fire and extended coverage and liability insurance for any  
52 railroad project, and for any offices of the division insurance protecting the division, officers and  
53 employees against liability, if any, for damage to property or injury to or death of persons arising

54 from its operations and be a member of, and to participate in, the state workers' compensation  
55 insurance.

56 (h) The division shall charge, alter, and collect rates, rentals and other charges for the use  
57 or services of any railroad project as provided in this article.

58 (i) The division may purchase railroad tracks being abandoned by any common carrier.

59 (j) The division shall acquire rail properties both within and not within the jurisdiction of the  
60 Surface Transportation Board and rail properties within the purview of the federal Fixing America's  
61 Surface Transportation Act of 2015, any amendments to it, and any other relevant federal  
62 legislation.

63 (k) The division shall assume the agreements and contracts currently in effect for the State  
64 Rail Authority and may enter into agreements with owners of rail properties for the acquisition of  
65 rail properties or use, or both, of rail properties upon the terms, conditions, rates, or rentals that  
66 can best effectuate the purposes of this article.

67 (l) The division shall acquire rail properties and other property of a railroad in concert with  
68 another state or states as is necessary to ensure continued rail service in this state.

69 (m) The division shall provide in the state plan for the equitable distribution of federal rail  
70 service continuation subsidies among state, local, and regional transportation authorities.

71 (n) The division shall maintain adequate programs of investigation, research, promotion,  
72 and development in connection with the purposes of the division and to provide for public  
73 participation.

74 (o) The division shall provide satisfactory assurances on behalf of the state that fiscal  
75 control and fund accounting procedures will be adopted by the state necessary to assure proper  
76 disbursement of and accounting for federal funds paid to the state as rail service continuation  
77 subsidies.

78 (p) The division shall comply with the regulations of the Secretary of Transportation of the  
79 United States Department of Transportation affecting federal rail service continuation programs.

80 (q) The division shall maximize federal assistance to the state under Title IV of the federal  
81 Regional Rail Reorganization Act of 1973 or any current or future federal statutes and to qualify  
82 for rail service continuation subsidies pursuant to the federal Fixing America's Surface  
83 Transportation Act of 2015 or any future federal statutes.

**§17-16F-14. Additional authority regarding the Maryland Area Regional Commuter.**

1 (a) The division shall coordinate all activities with the Maryland Transit Administration for  
2 the operation of the commuter rail operation between Maryland, the Washington, D.C.  
3 metropolitan area, and West Virginia. Any payments of track access fees pursuant to the  
4 agreement shall be paid from the fund created in §17-16F-27 of this code as provided by  
5 appropriation of the Legislature.

**§17-16F-15. Rail operations; purchases.**

1 (a) The division may sell, transfer, or lease all, or any part of, the rail properties and other  
2 property acquired under the provisions of this article to any responsible person, firm, or  
3 corporation for continued operation of a railroad or other public purpose: *Provided*, That approval  
4 for the continued operation or other public purpose, is granted by the Surface Transportation  
5 Board of the United States, whenever approval is required. The sale, transfer, or lease shall be  
6 for a price and subject to any further terms and conditions which the division deems necessary  
7 and appropriate to this article.

8 (b) After acquiring any railroad lines within the state, the division shall assist any  
9 responsible person, firm, or corporation to secure, as promptly as possible, any order or certificate  
10 required by the Surface Transportation Board for the performance of railroad service. The division  
11 shall also give any assurances or guarantees which are necessary or desirable to carry out the  
12 purposes of this article.

13 (c) The division shall take whatever steps are necessary to determine the absolute fee  
14 simple title ownership of all rail properties of any railroad within the state. The determination may  
15 include the status of the rail properties with respect to easements, rights-of-way, leases,

16 reversionary rights, fee simple title ownership, and any related title matters. The division may  
17 retain attorneys, experts, or other assistants, and issue any contracts as are necessary to make  
18 the title determination.

19 (d) All rail properties offered for sale by any railway corporation within the state after the  
20 enactment date of this article shall be offered first for sale to the state.

21 (e) The division shall cooperate with other states when purchasing rail properties within  
22 this state. The division shall also acquire railroad rights in other states and rail properties lying in  
23 other states to carry out the intentions and purposes of this article. In carrying out the powers and  
24 duties conferred by this article, the division shall enter into general contractual arrangements,  
25 including joint purchasing and leasing of rail properties with other states.

26 (f) In weighing the varied interests of the residents of this state, the division shall consider  
27 the individual interest of any county or municipality expressing a desire to acquire a portion, or all,  
28 of the abandoned real estate located within its jurisdiction. The division may acquire the  
29 abandoned property for subsequent conveyance to the county or municipality.

30 (g) The division may utilize federal funds, grants, gifts, or donations which are available  
31 and any sums that are appropriated in carrying out the purposes of this article. The division may  
32 also apply for discretionary or other funds available under the provisions of the federal Regional  
33 Rail Reorganization Act of 1973 or any current or future federal programs.

34 (h) The division may apply for an acquisition and modernization loan, or a guarantee of a  
35 loan, pursuant to the federal Regional Rail Reorganization Act of 1973, or any other federal  
36 programs, within the limit of funds appropriated for those purposes.

37 (i) The division may purchase any railroad rolling stock, equipment, and machinery  
38 necessary for the operation and maintenance of any rail properties purchased by it on behalf of  
39 the state, with any funds made available for this purpose. The division may also acquire and have  
40 available a pool of equipment and machinery which may be utilized by the operators of the rail  
41 properties for the purpose of track maintenance and other related railroad activities upon terms

42 and conditions determined appropriate. Notwithstanding any the provisions of this code to the  
43 contrary, the division and the Commissioner of the Division of Highways may enter into contracts  
44 or agreements for the lease or purchase and maintenance of any vehicles required for its  
45 purposes.

46 (j) The division may contract for the rebuilding or relocation of any rail properties acquired  
47 pursuant to this article, within the provisions of the federal Regional Rail Reorganization Act of  
48 1973 or any current or future federal statutes, or any other applicable legislation. The division may  
49 also spend any sums appropriated, as well as any other available funds, for the modernization,  
50 rebuilding, and relocation of any rail properties owned by the state or by a private carrier. The  
51 division shall do any maintenance on any rail properties owned by the state as is necessary in  
52 the public interest.

53 (k) The division may contract with any domestic or foreign person, firm, corporation,  
54 agency, or government to provide, maintain, or improve rail transportation service on the rail  
55 properties acquired by the state under this article.

56 (l) Whenever the division determines that any rail properties acquired by the state are no  
57 longer needed for railroad purposes, it shall, with the permission of the Governor, permanently or  
58 temporarily transfer the rail properties to any other state department or agency or political  
59 subdivision of the state, which shall utilize the properties for a public purpose. Whenever more  
60 than one department or agency or political subdivision wishes to utilize the property, the division  
61 shall resolve such a conflict and make a prompt determination of the reasonable and proper order  
62 of priority, taking into consideration any applicable state plans, policies, or objectives. If no state  
63 department or agency or political subdivision wants the properties, the division may sell them.

**§17-16F-16. Railroad Maintenance Fund.**

1 The Railroad Maintenance Fund heretofore created is hereby continued and shall be  
2 administered by the division. Expenditures are authorized from collections but are to be made  
3 only in accordance with appropriation by the Legislature and in accordance with the provisions of

4 §12-3-1 *et seq.* of this code and upon fulfillment of the provisions of §11B-2-1 *et seq.* of this code.  
5 Any balance remaining in the special revenue account at the end of any state fiscal year does not  
6 revert to the General Revenue Fund but remains in the special revenue account and shall be  
7 used solely in a manner consistent with the state rail portions of this article. All costs and expenses  
8 incurred pursuant to this article for state rail, including administrative, shall be paid from those  
9 funds. The division may expend, out of any funds available for the purpose, such moneys as are  
10 necessary for the study of any proposed railroad project and may use its engineering and other  
11 forces, including consulting engineers for the purpose of effecting such study. All such expenses  
12 incurred by such study and engineering shall be paid from the Railroad Maintenance Fund.

**§17-16F-17. Division empowered to issue bonds, renewal notes and refunding bonds;  
requirements and manner of such issuance.**

1 (a) The division, with approval of the secretary, may raise the cost of one or more railroad  
2 projects or parts of railroad projects by the issuance of railroad maintenance revenue bonds and  
3 notes of the state in such principal amount as the division deems necessary, but the aggregate  
4 amount of all issues of bonds and notes outstanding at one time for all projects authorized  
5 hereunder may not exceed that amount capable of being serviced by revenues received from  
6 such projects.

7 (b) The division, with approval of the secretary, may issue renewal notes, issue bonds to  
8 pay the notes and whenever it deems refunding expedient, refund any bonds by the issuance of  
9 railroad maintenance revenue refunding bonds of the state, whether the bonds to be refunded  
10 have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for  
11 any other authorized purpose. The refunding bonds shall be sold, and the proceeds applied to  
12 the purchase, redemption, or payment of the bonds to be refunded. Except as may otherwise be  
13 expressly provided by the division, every issue of its bonds or notes pursuant to this section are  
14 obligations of the division payable out of the revenues of the State Rail Section, which are pledged  
15 for such payment, without preference or priority of the first bonds issued, subject only to any

16 agreements with the holders of particular bonds or notes pledging any particular revenues. Such  
17 pledge is valid and binding from the time the pledge is made, and the revenue so pledged and  
18 thereafter received by the division is immediately subject to the lien of such pledge without any  
19 physical delivery or further act and the lien of any such pledge is valid and binding as against all  
20 parties having claims of any kind in tort, contract or otherwise against the division irrespective of  
21 whether the parties have notice.

22 (c) All bonds and notes have and are declared to have all the qualities of negotiable  
23 instruments.

24 (d) The bonds and notes authorized by the division, with approval of the secretary, shall  
25 bear the date and shall mature at such time, in the case of any note or any renewals not exceeding  
26 five years from the date of issue of the original note, and in the case of any bond not exceeding  
27 50 years from the date of issue, as the authorization may provide. The bonds and notes shall bear  
28 interest at a rate, be in denominations, be in the form, either coupon or registered, carry  
29 registration privileges, be payable in a medium of payment, at place and be subject to any terms  
30 of redemption that the division may authorize. The bonds and notes shall be sold by the division  
31 at public or private sale, at or not less than the price the division determines. The bonds and notes  
32 shall be executed by the commissioner. The official seal of, or a facsimile, shall be affixed or  
33 printed and attested, manually or by facsimile signature, by the commissioner, which may be  
34 made by facsimile or electronic signature. Any coupons attached shall bear the signature,  
35 facsimile signature, or electronic signature of the commissioner. In case the commissioner whose  
36 signature, a facsimile signature, or an electronic signature, appears on any bonds, notes or  
37 coupons ceases to be commissioner before delivery of the bonds or notes, the signature, facsimile  
38 or electronic signature is nevertheless sufficient for all purposes the same as if he or she had  
39 remained in their respective positions until delivery and in case the seal of the commissioner has  
40 been changed after a facsimile has been imprinted on such bonds or notes the facsimile seal will  
41 continue to be sufficient for all purposes.

42 (e) Any authorization of any bonds or notes or any issue shall contain provisions, subject  
43 to agreements with bondholders or noteholders as may then exist, as part of the contract with the  
44 holders, as to pledging all or any part of the revenues of the State Rail Section to secure the  
45 payment of the bonds or notes or of any issue; the use and disposition of revenues of the State  
46 Rail Section; a covenant to fix, alter and collect rates, rentals and other charges so that pledged  
47 revenues will be sufficient to pay the costs of operation, maintenance and repairs, pay principal  
48 of and interest on bonds or notes secured by the pledge of such revenues and provide any  
49 reserves that may be required by the applicable authorization or trust agreement; the setting aside  
50 of reserve funds, sinking funds or replacement and improvement funds and the regulation and  
51 disposition; the crediting of the proceeds of the sale of bonds or notes to and among the funds  
52 referred to or provided for in the authorization of issuance of the bonds or notes; the use, lease,  
53 sale or other disposition of any railroad project or any other assets of the division; limitations on  
54 the purpose to which the proceeds of sale of bonds or notes may be applied and pledging such  
55 proceeds to secure the payment of the bonds or notes or of any issue; notes issued in anticipation  
56 of the issuance of bonds, the agreement of the commissioner to do all things necessary for the  
57 authorization, issuance and sale of such bonds in such amounts that may be necessary for the  
58 timely retirement of the notes; limitations on the issuance of additional bonds or notes; the terms  
59 upon which additional bonds or notes may be issued and secured; the refunding of outstanding  
60 bonds or notes; the procedure, if any, by which the terms of any contract with bondholders or  
61 noteholders may be amended or abrogated, the amount of bonds or notes the holders of which  
62 must consent and the manner in which such consent may be given; limitations on the amount of  
63 moneys to be expended by the division for operating, administrative or other expenses of the  
64 division; securing any bonds or notes by a trust agreement; and any other matters, of like or  
65 different character, which in any way affect the security or protection of the bonds or notes.

66 (f) No person executing the bonds or notes is liable personally on the bonds or notes or  
67 be subject to any personal liability or accountability by reason of the issuance.

**§17-16F-18. Trustee for bondholders; contents of trust agreement.**

1 (a) In the discretion of the commissioner, any railroad maintenance bonds or notes or  
2 railroad maintenance refunding bonds issued by them under this article may be secured by a trust  
3 agreement between the commissioner and a corporate trustee, which trustee may be any trust  
4 company or banking institution having the powers of a trust company within or without this state.

5 (b) Any such trust agreement shall pledge or assign revenues of the State Rail Section to  
6 be received, but shall not convey or mortgage any railroad project in whole or in part. Any such  
7 trust agreement or any authorization providing for the issuance of such bonds or notes may  
8 contain such provisions for protecting and enforcing the rights and remedies of the bondholders  
9 or noteholders as are reasonable and proper and not in violation of law, including covenants  
10 setting forth the duties of the division in relation to the acquisition of property, the construction,  
11 improvement, maintenance, repair, operation, and insurance of the railroad project in connection  
12 with which such bonds or notes are authorized, the rentals or other charges to be imposed for the  
13 use or services of any railroad project, the custody, safeguarding, and application of all moneys  
14 and provisions for the employment of consulting engineers in connection with the construction or  
15 operation of such railroad project. Any banking institution or trust company incorporated under  
16 the laws of this state which may act as depository of the proceeds of bonds or notes or of revenues  
17 shall furnish such indemnifying bonds or pledge such securities as are required by the division.  
18 Any such trust agreement may set forth the rights and remedies of the bondholders and  
19 noteholders and of the trustee and may restrict individual rights of action by bondholders and  
20 noteholders as customarily provided in trust agreements or trust indentures securing similar  
21 bonds. Such trust agreement may contain such other provisions as the commissioner deems  
22 reasonable and proper for the security of the bondholders or noteholders. All expenses incurred  
23 in carrying out the provisions of any trust agreement may be treated as a part of the cost of the  
24 operation of the railroad project. Any trust agreement or authorization of the issuance of railroad  
25 maintenance revenue bonds may provide the method whereby the general administrative

26 overhead expenses of the division shall be allocated among the several projects acquired or  
27 constructed by it as a factor of the operating expenses of each such project.

**§17-16F-19. Legal remedies of bondholders and trustees.**

1 Any holder of railroad maintenance revenue bonds issued under the authority of this article  
2 or any of the appertaining coupons and the trustee under any trust agreement, except to the  
3 extent the rights given by this article may be restricted by the applicable authorization or trust  
4 agreement, may by civil action, mandamus, or other proceedings, protect and enforce any rights  
5 granted under the laws of this state or granted under this article, by the trust agreement or by the  
6 authorization of issuance of bonds, and may enforce and compel the performance of all duties  
7 required by this article, or by the trust agreement or authorization, to be performed by the  
8 commissioner, division or any employee, including the fixing, charging and collecting of sufficient  
9 rentals or other charges.

**§17-16F-20. Bonds and notes not debt of state, county, municipality, or of any political  
subdivision; expenses incurred pursuant to article.**

1 (a) Railroad maintenance revenue bonds and notes and railroad maintenance revenue  
2 refunding bonds issued under authority of this article and any coupons in connection therewith do  
3 not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any  
4 county, municipality, or any other political subdivision of this state, and the holders or owners  
5 have no right to have taxes levied by the Legislature or taxing authority of any county, municipality,  
6 or any other political subdivision of this state for the payment of the principal or interest, but such  
7 bonds and notes are payable solely from the revenues and funds pledged for their payment as  
8 authorized by this article unless the notes are issued in anticipation of the issuance of bonds or  
9 the bonds are refunded by refunding bonds issued under authority of this article, which bonds or  
10 refunding bonds are payable solely from revenues and funds pledged for their payment as  
11 authorized by this article. All bonds and notes shall contain on the face of a statement to the effect  
12 that the bonds or notes, as to both principal and interest, are not debts of the state or any county,

13 municipality, or political subdivision, but are payable solely from revenues and funds pledged for  
14 their payment.

15 (b) All expenses incurred in carrying out the provisions of this article are payable solely  
16 from funds provided under authority of this article. The division is not authorized to incur  
17 indebtedness or liability on behalf of or payable by the state or any county, municipality, or political  
18 subdivision.

**§17-16F-21. Use of funds by division; restrictions.**

1 All moneys, properties and assets acquired by the division, whether as proceeds from the  
2 sale of railroad maintenance revenue bonds or as revenues or other source which are attributable  
3 to a railroad project or purpose, shall be held by it in trust for the purposes of carrying out his or  
4 her powers and duties, and shall be used and reused in accordance with the purposes and  
5 provisions of this article. Such moneys may at no time be commingled with other public funds.  
6 Such moneys, except as otherwise provided in any authorization of the issuance of railroad  
7 maintenance revenue bonds or in any trust agreement securing the same, or except when  
8 invested pursuant to §17-16F-23 of this code, shall be kept in appropriate depositories and  
9 secured as provided and required by law. The authorization of the issuance of bonds of any issue  
10 or the trust agreement securing bonds shall provide that any person to whom, or any banking  
11 institution or trust company to which, moneys are paid shall act as trustee of such moneys and  
12 hold and apply them for the purposes hereof, subject to the conditions this article and the  
13 authorization or trust agreement provide.

**§17-16F-22. Investment of funds by division.**

1 Funds of the State Rail Section in excess of current needs, except as otherwise provided  
2 in any authorization for the issuance of railroad maintenance revenue bonds or in any trust  
3 agreement securing the same, may be invested by the West Virginia Investment Management  
4 Board as authorized to invest under §12-6-1 *et seq.* of this code. Income from all such investments  
5 of moneys in any fund shall be credited to such funds as the commissioner determines, subject

6 to the provisions of any authorization or trust agreement and such investments may be sold at  
7 such times as the commissioner, determines.

**§17-16F-23. Rentals and other revenues from railroad projects; contracts and leases of  
division; cooperation of other governmental agencies; bonds of such agencies.**

1 (a) The division shall charge, alter, and collect rates, rentals, or other charges for the use  
2 or services of any project, and contract in the manner provided by this section with one or more  
3 persons, one or more governmental agencies, or a combination, desiring the use or services, and  
4 fix the terms, conditions, rates, rentals, or other charges for use or services. The rentals or other  
5 charges are not subject to supervision, or regulation by any other division, authority, department,  
6 commission, board, bureau, or agency of the state, and the contract may provide for acquisition  
7 by a person or governmental agency of all or any part of a railroad project for consideration  
8 payable over the period of the contract or otherwise as the division in its sole discretion determines  
9 to be appropriate, but subject to the provisions of any authorized issue of railroad maintenance  
10 revenue bonds or notes or railroad maintenance revenue refunding bonds of the division or any  
11 trust agreement securing the same. Any governmental agency which has power to construct,  
12 operate, and maintain railroad projects may enter into a contract or lease with the division whereby  
13 the use or services of any railroad project of the division will be made available to such  
14 governmental agency and pay for such use or services such rentals or other charges as may be  
15 agreed to by such governmental agency and the division.

16 (b) Any governmental agency or agencies shall cooperate with the division in the  
17 acquisition or construction of a railroad project and shall enter into such agreements with the  
18 division when necessary, facilitating cooperation and safeguarding the respective interests of the  
19 parties, which agreements shall provide for such contributions by the parties in such proportion  
20 as may be agreed upon and such other terms as may be mutually satisfactory to the parties,  
21 including without limitation the authorization of the construction of the project by one of the parties  
22 acting as agent for all of the parties and the ownership and control of the project by the division

23 to the extent necessary or appropriate for purposes of the issuance of railroad maintenance  
24 revenue bonds by the commissioner. Any governmental agency may provide contributions as is  
25 required under the agreements by the appropriation of money or, if authorized by a favorable vote  
26 of the electors to issue bonds or notes or levy taxes or assessments and issue notes or bonds in  
27 anticipation of the collection, by the issuance of bonds or notes or by the levying of taxes or  
28 assessments and the issuance of bonds or notes in anticipation of the collection, and by the  
29 payment of such appropriated money or the proceeds of such bonds or notes to the division  
30 pursuant to such agreements.

31 (c) Any governmental agency, pursuant to a favorable vote of the electors in an election  
32 held for the purpose of issuing bonds to provide funds to acquire, construct or equip, or provide  
33 real estate and interests in real estate for a railroad project, whether or not the governmental  
34 agency at the time of such election had the authority to pay the proceeds from such bonds or  
35 notes issued in anticipation to the division as provided in this section, may issue such bonds or  
36 notes in anticipation of the issuance and pay the proceeds to the division in accordance with an  
37 agreement between such governmental agency and the division: *Provided*, That the legislative  
38 authority of the governmental agency finds and determines that the railroad project to be acquired  
39 or constructed by the division in cooperation with such governmental agency will serve the same  
40 public purpose and meet substantially the same public need as the facility otherwise proposed to  
41 be acquired or constructed by the governmental agency with the proceeds of such bonds or notes.

**§17-16F-24. Maintenance, operation, and repair of projects; reports to Governor and  
Legislature.**

1 (a) Each railroad project, when constructed and placed in operation, shall be maintained,  
2 and kept in good condition by the division. Each project shall be operated by the division's  
3 employees pursuant to a contract or lease with a governmental agency or person. All public or  
4 private property damaged or destroyed while carrying out the provisions of this article shall be

5 restored or repaired to its original condition, or as nearly as practicable or adequate compensation  
6 made out of funds provided in accordance with the provisions of this article.

7 (b) As soon as possible after the close of each fiscal year, the authority shall make an  
8 annual report of its activities for the preceding fiscal year to the Governor and the Joint Committee  
9 on Government and Finance. Each such report shall set forth a complete operating and financial  
10 statement covering the authority's operations during the preceding fiscal year. The authority shall  
11 cause an audit of its books and accounts to be made at least once each fiscal year by certified  
12 public accountants and the cost thereof may be treated as a part of the cost of construction or of  
13 operations of its projects. Any report under this section may be made electronically and paper  
14 copies may be provided upon request.

**§17-16F-25. Railroad maintenance bonds lawful investments.**

1 By the provisions of §12-6-1 *et seq.* of this code, notwithstanding any code section to the  
2 contrary, all railroad maintenance revenue bonds issued pursuant to this article are lawful  
3 investments for the West Virginia Investment Management Board and are also lawful investments  
4 for banking institutions, societies for savings, building and loan associations, savings and loan  
5 associations, deposit guarantee associations, trust companies, insurance companies, including  
6 domestic for life and domestic not for life insurance companies.

**§17-16F-26. West Virginia Commuter Rail Access Fund.**

1 There is continued a special fund in the State Treasury known as the West Virginia  
2 Commuter Rail Access Fund. The fund shall be administered by the division and shall consist of  
3 appropriations by the Legislature. Subject to legislative appropriation, the division shall administer  
4 the fund to pay track access fees pursuant to agreement as required by this article. Balances in  
5 the fund at the end of any fiscal year shall not expire but shall be expended for those purposes in  
6 ensuing fiscal years.

**§17-16F-27. State rail plan required.**

1 (a) The division shall establish, administer, and coordinate a state plan for rail  
2 transportation and local rail services. In establishing and updating the plan, the division may  
3 request input from freight and rail passenger associations.

4 (b) The plan shall, at a minimum, comply with the provisions of the laws and regulations  
5 of the United States relating to capturing and administering federal moneys for rail transportation,  
6 local rail services, and intermodal facilities as deemed necessary by the division.

**§17-16F-28. Additional powers and duties of division related to aeronautics, airports, and  
air navigation projects.**

1 (a) The secretary shall appoint necessary staff to oversee and manage the facilities and  
2 operations of the aeronautics section. Staff are covered by the Department of Transportation merit  
3 based system and the Career, Classification, and Compensation Plan. The division shall  
4 encourage, foster, and assist in the development of aeronautics in this state and encourage the  
5 establishment of airports and air navigation facilities. The division shall cooperate with and assist  
6 the federal government, the municipalities of this state, and other persons in the development of  
7 aeronautics and shall act to coordinate the aeronautical activities of these bodies and persons.  
8 Municipalities are authorized to cooperate with the division in developing aeronautics and  
9 aeronautics facilities in this state. The division is given the power and authority to make such  
10 policies as it may consider necessary and advisable for the public safety, governing the designing,  
11 laying out, locating, building, equipping, and operating of all airports and the conduct of all other  
12 phases of aeronautics.

**§17-16F-29. State financial assistance for county, municipal and regional airports.**

1 The division, out of any appropriation funds made by the Legislature or any funds at its  
2 disposal, may make funds available by grant or otherwise to counties, municipalities, and regional  
3 airport authorities, created under the provisions of chapter 8 of this code, for the planning,  
4 acquisition, construction, improvement, maintenance, or operation of airports owned or operated

5 or to be owned or operated by such counties, municipalities, or regional airport authorities.  
6 Acceptance of any moneys by any such county, municipality, or regional airport authority, shall  
7 constitute consent by the recipient that a reasonable use of such airport may be made, upon  
8 request of the division, by the United States, the state, or any of their respective agencies,  
9 including the National Guard of West Virginia for State purposes related or incidental to  
10 aeronautics. Such financial assistance may be furnished in connection with federal or other  
11 financial aid for the same purpose.

**§17-16F-30. Financial aid.**

1 (a) The division shall cooperate with the United States, and any agency or department, in  
2 the planning, acquisition, construction, improvement, maintenance, and operation of airports and  
3 other air navigation facilities in this state and may accept federal aid either outright or by way of  
4 matching, in whole or in part, as required, and when funds for matching are available to the  
5 division, comply with the provisions of the laws and regulations of the United States for the  
6 expenditure of federal moneys upon such airports and other air navigation facilities.

7 (b) The division may accept, receive, and receipt for federal moneys and other moneys,  
8 either public or private, for and on behalf of this state, or any municipality, for the planning,  
9 acquisition, construction, improvement, maintenance, and operation of airports and other air  
10 navigation facilities, whether such work is to be done by the state or by such municipality, or  
11 jointly, aided by grants of aid from the United States, upon such terms and conditions as are or  
12 may be prescribed by the laws, rules, or regulations of the United States. The division shall be  
13 designated as the agency of the state and shall act as agent of any municipality upon the request  
14 of such municipality, in accepting, receiving, and receipting for such moneys on its behalf for  
15 airports or other air navigation facility purposes, and in contracting for the planning, acquisition,  
16 construction, improvement, maintenance, or operation of airports or other air navigation facilities,  
17 financed, either in whole or in part, by federal moneys. Any such municipality shall enter an  
18 agreement with the division prescribing the terms and conditions of such agency in accordance

19 with federal laws and regulations and with this article. Such moneys paid by the United States  
20 shall be retained by the state or said municipalities under such terms and conditions as may be  
21 imposed by the United States in making such grants.

22 (c) All contracts for the planning, acquisition, construction, improvement, maintenance,  
23 and operation of airports, or other air navigation facilities made by the division, either as the agent  
24 of the State or as the agent of any municipality, shall be made pursuant to the laws of this state:  
25 *Provided, That* where the planning, acquisition, construction, improvement, maintenance, and  
26 operation of any airport or other air navigation facility is financed wholly or partially with federal  
27 moneys, the division, as agent of the State or of any municipality, shall execute contracts in the  
28 manner prescribed by the federal laws, rule, or regulations, notwithstanding State law to the  
29 contrary.

30 (d) All moneys accepted for disbursement by the division pursuant to this section shall be  
31 deposited in the State Treasury, and, unless otherwise prescribed by the authority from which the  
32 money is received, kept in separate funds, designated according to the purposes for which the  
33 moneys were made available, and held by the State in trust. All such moneys are appropriated  
34 for the purposes for which the same were made available and shall be expended in accordance  
35 with federal laws and regulations and with the provisions of this article. The division shall, whether  
36 acting for this state or the agent of any municipality, when requested by the United States or any  
37 agency or department or by the state or municipality for which the money has been made  
38 available, disburse such moneys for the designated purposes, but this shall not preclude any  
39 other authorized method of disbursement.

40 (e) The state or municipality shall cooperate with the United States, and any agency or  
41 department, in the acquisition, construction, improvement, maintenance, and operation of airports  
42 and other air navigation facilities in this state and shall accept federal aid, either by way of outright  
43 grant or by matching the same, in whole or in part, as required to comply with the provisions of

44 the laws and regulations of the United States for the expenditure of federal moneys upon such  
45 airports and other air navigation facilities.

**§17-16F-31. Establishment and operation of state airports.**

1 (a) The commissioner is authorized on behalf of and in the name of the State, out of  
2 appropriations and other moneys made available for such purposes, to plan, establish, construct,  
3 maintain, and operate airports and air navigation facilities within the state. For these purposes the  
4 director may, by purchase, gift, devise, lease, condemnation, or otherwise, acquire such property,  
5 real or personal, as is necessary to permit safe and efficient operation of the airports and air  
6 navigation facilities. In like manner, the director may acquire existing airports and air navigation  
7 facilities: *Provided*, That he or she may not acquire or take over any airport or air navigation facility  
8 owned or controlled by a municipality of this or any other state without the consent of the  
9 municipality.

10 (b) The commissioner may by sale, lease, or otherwise, dispose of property, airport, air  
11 navigation facility, or portion thereof or interest therein. Any disposal by lease shall be made  
12 pursuant to the terms of §8-28-7 of this code. Any disposal by sale or otherwise shall be in  
13 accordance with the laws of this state governing the disposition of other property of the state,  
14 except that in the case of disposal to any municipality or state government or the United States  
15 for aeronautical purposes incident thereto the sale or other disposal may be effected in such  
16 manner and upon such terms as the director determines are in the best interest of the state.

17 (c) Nothing contained in this article shall be construed to limit any right, power, or authority  
18 of the State or a municipality to regulate airport hazards by zoning.

19 (d) The commissioner may exercise any powers granted by this section jointly with any  
20 municipalities or agencies of the state government, with other states or their municipalities, or with  
21 the United States.

22 (e) In the condemnation of property authorized by this section, the director shall proceed  
23 in the name of the State in the manner provided by §54-1-1 *et seq.* of this code.

24 (f) The acquisition of any lands or interests therein pursuant to this article, the planning,  
25 acquisition, establishment, construction, improvement, maintenance, and operation of airports  
26 and air navigation facilities, whether by the state separately or jointly with any municipalities, and  
27 the exercise of any other powers herein granted to the director are hereby declared to be public  
28 and governmental functions, exercised for a public purpose, and matters of public necessity. All  
29 lands and other property and privileges acquired and used by or on behalf of the State in the  
30 manner and for the purposes enumerated in this article shall and are hereby declared to be  
31 acquired and used for public and governmental purposes and as a matter of public necessity.

**§17-16F-32. Use of state and municipal facilities and services.**

1 The division shall use the facilities and services of other agencies of the state and of the  
2 municipalities to the utmost extent possible, and such agencies and municipalities shall make  
3 available their facilities and services in furtherance of aeronautics in this state.

**§17-16F-33. Disposition of fees.**

1 All fees or other moneys collected by the division under the provisions of this article shall  
2 be paid into the State Treasury in the manner provided in §12-2-1 *et seq.* of this code, and shall  
3 be deposited in a separate account and be used and expended only to carry out the provisions of  
4 this article. The fees or other moneys so paid into the State Treasury shall constitute and be  
5 treated as an excepted fund, and all the provisions of §12-2-2 of this code, applicable to the funds  
6 excepted from the general provisions for the deposit and payment of state funds, shall be  
7 applicable to the fund derived from collections made pursuant to the provisions of this article.

**§17-16F-34. Severability.**

1 If any provision of this article or the application to any person or circumstance shall be  
2 held invalid, such invalidity shall not affect the provisions or applications of this article which can  
3 be given effect without the invalid provisions or application, and to this end the provisions of this  
4 article are declared to be severable.

**CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

**ARTICLE 2A. STATE AERONAUTICS COMMISSION.**

**§29-2A-1. Definitions.**

1 [Repealed].

**§29-2A-2. Short title; continuation of commission; membership and compensation; quorum.**

1 [Repealed].

**§29-2A-3. Powers and duties of commission.**

1 [Repealed].

**§29-2A-4. Organization of commission; meetings; reports; offices.**

1 [Repealed].

**§29-2A-5. Director of aeronautics; appointment, qualifications, compensation, powers and duties; staff.**

1 [Repealed].

**§29-2A-6. State financial assistance for county, municipal, and regional airports.**

1 [Repealed].

**§29-2A-7. Federal aid.**

1 [Repealed].

**§29-2A-8. Establishment and operation of state airports.**

1 [Repealed].

**§29-2A-10. Public purpose of activities.**

1 [Repealed].

**§29-2A-11. Operation of aircraft while under influence of alcohol, controlled substances or drugs; criminal penalties.**

1 [Repealed].

**§29-2A-11a. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.**

1 [Repealed].

**§29-2A-11b. Preliminary analysis of breath to determine alcoholic content of blood.**

1 [Repealed].

**§29-2A-11c. How blood test administered; additional test at option of person tested; use of test results; certain immunity from liability incident to administering test.**

1 [Repealed].

**§29-2A-11d. Interpretation and use of chemical test.**

1 [Repealed].

**§29-2A-11e. Right to demand test.**

1 [Repealed].

**§29-2A-11f. Fee for withdrawing blood sample and making urine test; payment of fees.**

1 [Repealed].

**§29-2A-12. Operation of aircraft at low altitude or in careless and reckless manner; penalty.**

1 [Repealed].

**§29-2A-13. Unauthorized taking or operation of aircraft; penalty.**

1 [Repealed].

**§29-2A-14. Federal license required for operation of aircraft.**

1 [Repealed].

**§29-2A-20. Enforcement of aeronautics laws.**

1 [Repealed].

**ARTICLE 18. WEST VIRGINIA STATE RAIL AUTHORITY.**

**§29-18-1. Short title.**

1 [Repealed].

**§29-18-2. Declaration of policy and responsibility; purpose and intent of article; findings.**

1 [Repealed].

**§29-18-3. Definitions.**

1 [Repealed].

**§29-18-4. West Virginia state rail authority continued; organization of authority; appointment of members; term of office, compensation and expenses; director of authority; termination date.**

1 [Repealed].

**§29-18-4a. Supervision of West Virginia State Rail Authority; executive director's compensation.**

1 [Repealed].

**§29-18-5. Authority may construct, maintain, etc., railroad maintenance projects.**

1 [Repealed].

**§29-18-6. Powers, duties and responsibilities of authority generally.**

1 [Repealed].

**§29-18-7. Operations; purchases.**

1 [Repealed].

**§29-18-8. Creation of railroad maintenance authority fund.**

1 [Repealed].

**§29-18-9. Expenditure of funds for study and engineering of proposed projects.**

1 [Repealed].

**§29-18-10. Authority empowered to issue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.**

1 [Repealed].

**§29-18-11. Trustee for bondholders; contents of trust agreement.**

1 [Repealed].

**§29-18-12. Legal remedies of bondholders and trustees.**

1 [Repealed].

**§29-18-13. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.**

1 [Repealed].

**§29-18-14. Use of funds by authority; restrictions thereon.**

1 [Repealed].

**§29-18-15. Investment of funds by authority.**

1 [Repealed].

**§29-18-16. Rentals and other revenues from railroad projects; contracts and leases of authority; cooperation of other governmental agencies; bonds of such agencies.**

1 [Repealed].

**§29-18-17. Maintenance, operation and repair of projects; reports by authority to Governor and Legislature.**

1 [Repealed].

**§29-18-18. Railroad maintenance bonds lawful investments.**

1 [Repealed].

**§29-18-19. Exemption from taxation.**

1 [Repealed].

**§29-18-20. Acquisition of property by authority; governmental agencies authorized to convey, etc., property.**

1 [Repealed].

**§29-18-21. Property of public utilities and common carriers.**

1 [Repealed].

**§29-18-22. Financial interest in contracts prohibited; penalty.**

1 [Repealed].

**§29-18-23. Meetings and records of authority to be kept public.**

1 [Repealed].

**§29-18-24. Creation of the West Virginia Commuter Rail Access Fund.**

1 [Repealed].

**§29-18-25. State rail plan required.**

1 [Repealed].

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

*Dean Jeffers*  
.....  
Chairman, House Committee

*Mark Haynes*  
.....  
Chairman, Senate Committee

Originating in the House.

In effect from passage.

*Steve Hovvian*  
.....  
Clerk of the House of Delegates

*Joe Linn*  
.....  
Clerk of the Senate

*Ray Hanks*  
.....  
Speaker of the House of Delegates

*Cy Poble*  
.....  
President of the Senate

FILED  
2022 MAR 30 P 5:17  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

The within ..... is approved this the 30th  
day of March ..... 2022.

*James Justice*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 25 2022

Time 11:38am