

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 414

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Originating in the Committee on Transportation and

Infrastructure; reported on March 20, 2017]

1 A BILL to repeal §17-16B-1, §17-16B-2, §17-16B-3, §17-16B-4, §17-16B-5, §17-16B-6, §17-16B-
2 7, §17-16B-7a, §17-16B-7b, §17-16B-8, §17-16B-9, §17-16B-10, §17-16B-11, §17-16B-
3 12, §17-16B-13, §17-16B-14, §17-16B-15, §17-16B-16, §17-16B-17, §17-16B-18, §17-
4 16B-19, §17-16B-20, §17-16B-21 and §17-16B-22 of the Code of West Virginia, 1931, as
5 amended; to repeal §29-2A-1, §29-2A-2, §29-2A-3, §29-2A-3a, §29-2A-4, §29-2A-5,
6 §29-2A-6, §29-2A-7, §29-2A-8, §29-2A-9, §29-2A-10, §29-2A-11, §29-2A-11a, §29-2A-
7 11b, §29-2A-11c, §29-2A-11d, §29-2A-11e, §29-2A-11f, §29-2A-12, §29-2A-13, §29-2A-
8 14, §29-2A-17, §29-2A-18, §29-2A-19, §29-2A-20, §29-2A-21, §29-2A-22, §29-2A-23,
9 §29-2A-24, §29-2A-25, §29-2A-26, §29-2A-27 and §29-2A-28 of said code; to repeal §29-
10 18-1, §29-18-2, §29-18-3, §29-18-4, §29-18-4a, §29-18-5, §29-18-6, §29-18-7, §29-18-8,
11 §29-18-9, §29-18-10, §29-18-11, §29-18-12, §29-18-13, §29-18-14, §29-18-15, §29-18-
12 16, §29-18-17, §29-18-18, §29-18-19, §29-18-20, §29-18-21, §29-18-22, §29-18-23, §29-
13 18-24 and §29-18-25 of said code; to amend and reenact §5F-2-1 of said code; and to
14 amend said code by adding thereto a new article, designated §17-16F-1, §17-16F-2, §17-
15 16F-3, §17-16F-4, §17-16F-5, §17-16F-6, §17-16F-7, §17-16F-8, §17-16F-9, §17-16F-10,
16 §17-16F-11, §17-16F-12, §17-16F-13, §17-16F-14, §17-16F-15, §17-16F-16, §17-16F-
17 17, §17-16F-18, §17-16F-19, §17-16F-20, §17-16F-21, §17-16F-22, §17-16F-23, §17-
18 16F-24, §17-16F-25, §17-16F-26, §17-16F-27, §17-16F-28, §17-16F-29, §17-16F-30,
19 §17-16F-31, §17-16F-32, §17-16F-33, §17-16F-34, §17-16F-35 and §17-16F-36, all
20 relating to creating the Division of Multimodal Transportation; combining the powers and
21 duties and eliminating certain references to the Public Port Authority, the West Virginia
22 State Rail Authority and the state Aeronautics Commission; providing for legislative
23 findings and creation of the division; transferring employees, equipment, assets, liabilities,
24 contracts, agreements, functions and duties to the division; providing for all property
25 currently held by the Public Port Authority, the West Virginia State Rail Authority and the
26 state Aeronautics Commission to be transferred to the division; authorizing the Secretary

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

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

79 federal regulations; authorizing all actions necessary to maximize federal assistance for
80 rail subsidies; providing powers necessary to coordinate with the Maryland Transit
81 Administration for continued operation in the state, including negotiation and contracting
82 authority; providing that any commuter rail operation agreement will meet certain service
83 standards; providing that any track access fees to be paid pursuant to the agreement shall
84 be paid from the West Virginia Commuter Rail Access Fund; authorizing sale or transfer
85 of interest in rail property with federal approval when required; authorizing assistance to
86 entities seeking federal railroad service certification, including the provision of any
87 necessary assurances or guarantees; authorizing division to retain attorney or others to
88 title ownership of rail properties within the state; requiring rail properties offered for sale
89 within the state to be offered first to the state; providing that division may acquire railroad
90 rights in other states and may cooperate with other states in so purchasing any rail
91 properties; providing for the division to give consideration to county or municipality interest
92 in acquiring abandoned property interest and providing for the division to acquire any such
93 abandoned property for subsequent conveyance to a county or municipality; authorizing
94 the division to apply for and utilize federal funds or loans in carrying out its purposes of
95 this article; authorizing the purchase of any railroad rolling stock, equipment and
96 machinery necessary for the operation and maintenance of state rail properties and
97 authorizing contracts with the Division of Highways for maintenance or purchase of
98 vehicles; authorizing maintenance, rebuilding or relocation of state rail properties and
99 authorizing expenditures for the modernization, rebuilding and relocation of any rail
100 properties owned by the state or private carrier; providing for contracting with domestic or
101 foreign entities to provide, maintain or improve rail transportation service on state rail
102 properties; providing for transfer of rail properties to other entities within the state when
103 permitted by the Governor; authorizing the division to resolve conflicts when multiple
104 entities want to utilize the same rail property; providing for proceeds from the sale of state

105 rail property to be deposited in Railroad Maintenance Fund; terminating Railroad
106 Maintenance Authority Fund and creating a Railroad Maintenance Fund for proceeds and
107 expenditures related to division's purpose; authorizing expenditure from any fund for study
108 of proposed rail projects and use of funds from Railroad Maintenance Fund for study and
109 engineering costs; authorizing the issuance of railroad maintenance revenue bonds and
110 notes for costs of rail projects, including issuance of renewal notes and bond refund, with
111 aggregate amount of all issues of bonds and notes outstanding at one time not exceeding
112 amount capable of being serviced by revenues received; providing that issues of bonds
113 or notes are negotiable instruments and are obligations of the division and are payable
114 out of the revenues which are pledged for such payment; providing for maturity date, terms
115 of execution, sale, redemption and delivery; authorizing the establishment of various
116 conditions necessary to secure sufficient funds to protect bonds or notes; providing that
117 person executing bonds or notes is not personally liable therefor; providing for trust
118 agreement to secure bonds issued by division and creating conditions therefor, not
119 including mortgage of any rail project; allocating expenses of bond issuance or trust
120 agreement to rail projects; providing for civil action for bondholders seeking to enforce
121 rights granted; providing that bonds are payable from division revenues and are not a debt
122 of state or political subdivision; restricting division from incurring debt on behalf of state or
123 political subdivision; authorizing use of proceeds from bonds to carry out division's powers
124 and prohibiting commingling with other funds; providing for the investment of excess funds
125 by West Virginia State Board of Investments; authorizing division to collect rents or
126 revenues for use of rail projects; providing for cooperation with other governmental
127 agencies to effect acquisition of rail project or bond issuance; authorizing division to
128 maintain rail projects in good repair; providing that railroad maintenance bonds are lawful
129 investments for various entities; continuing West Virginia Commuter Rail Access Fund
130 which is administered by division director; requiring division to establish a state rail plan

131 that complies with federal requirements for funding; providing for specific duties related to
132 aeronautics projects; authorizing division to advance development of aeronautics in
133 cooperation with municipalities; authorizing rules necessary for public safety related to
134 airports and aeronautics; providing for the expenditure of funds for various needs of Civil
135 Air Patrol; authorizing division to fund grants for public airport authorities; authorizing
136 division to receive federal funding to support airports or air navigation facilities; providing
137 for procedures and conditions for use of federal funds; requiring a federal license to
138 operate an aircraft; allowing for the use of state and municipal facilities and services;
139 disposing of fees collected under this code section; and a severability clause.

Be it enacted by the Legislature of West Virginia:

1 That §17-16B-1, §17-16B-2, §17-16B-3, §17-16B-4, §17-16B-5, §17-16B-6, §17-16B-7,
2 §17-16B-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, §17-16B-
4 20, §17-16B-21 and §17-16B-22 of the Code of West Virginia, 1931, as amended, be repealed;
5 that §29-2A-1, §29-2A-2, §29-2A-3, §29-2A-3a, §29-2A-4, §29-2A-5, §29-2A-6, §29-2A-7, §29-
6 2A-8, §29-2A-9, §29-2A-10, §29-2A-11, §29-2A-11a, §29-2A-11b, §29-2A-11c, §29-2A-11d, §29-
7 2A-11e, §29-2A-11f, §29-2A-12, §29-2A-13, §29-2A-14, §29-2A-17, §29-2A-18, §29-2A-19, §29-
8 2A-20, §29-2A-21, §29-2A-22, §29-2A-23, §29-2A-24, §29-2A-25, §29-2A-26, §29-2A-27 and
9 §29-2A-28 of said code be repealed; that §29-18-1, §29-18-2, §29-18-3, §29-18-4, §29-18-4a,
10 §29-18-5, §29-18-6, §29-18-7, §29-18-8, §29-18-9, §29-18-10, §29-18-11, §29-18-12, §29-18-13,
11 §29-18-14, §29-18-15, §29-18-16, §29-18-17, §29-18-18, §29-18-19, §29-18-20, §29-18-21, §29-
12 18-22, §29-18-23, §29-18-24 and §29-18-25 of said code be repealed; that §5F-2-1 of said code
13 be amended and reenacted; and that said code be amended by adding thereto a new article,
14 designated §17-16F-1, §17-16F-2, §17-16F-3, §17-16F-4, §17-16F-5, §17-16F-6, §17-16F-7,
15 §17-16F-8, §17-16F-9, §17-16F-10, §17-16F-11, §17-16F-12, §17-16F-13, §17-16F-14, §17-16F-
16 15, §17-16F-16, §17-16F-17, §17-16F-18, §17-16F-19, §17-16F-20, §17-16F-21, §17-16F-22,

17 §17-16F-23, §17-16F-24, §17-16F-25, §17-16F-26, §17-16F-27, §17-16F-28, §17-16F-29, §17-
18 16F-30, §17-16F-31, §17-16F-32, §17-16F-33, §17-16F-34, §17-16F-35 and §17-16F-36, all to
19 read as follows:

**CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF
STATE GOVERNMENT.**

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-1. Transfer and incorporation of agencies and boards; funds.

1 (a) The following agencies and boards, including all of the allied, advisory, affiliated or
2 related entities and funds associated with any agency or board, are incorporated in and
3 administered as a part of the Department of Administration:

4 (1) Building Commission provided in article six, chapter five of this code;

5 (2) Public Employees Insurance Agency provided in article sixteen, chapter five of this
6 code;

7 (3) Governor's Mansion Advisory Committee provided in article five, chapter five-a of this
8 code;

9 (4) Commission on Uniform State Laws provided in article one-a, chapter twenty-nine of
10 this code;

11 (5) West Virginia Public Employees Grievance Board provided in article three, chapter six-
12 c of this code;

13 (6) Board of Risk and Insurance Management provided in article twelve, chapter twenty-
14 nine of this code;

15 (7) Boundary Commission provided in article twenty-three, chapter twenty-nine of this
16 code;

17 (8) Public Defender Services provided in article twenty-one, chapter twenty-nine of this
18 code;

19 (9) Division of Personnel provided in article six, chapter twenty-nine of this code;

20 (10) The West Virginia Ethics Commission provided in article two, chapter six-b of this
21 code;

22 (11) Consolidated Public Retirement Board provided in article ten-d, chapter five of this
23 code; and

24 (12) Real Estate Division provided in article ten, chapter five-a of this code.

25 (b) The following agencies and boards, including all of the allied, advisory, affiliated or
26 related entities and funds associated with any agency or board, are incorporated in and
27 administered as a part of the Department of Commerce:

28 (1) Division of Labor provided in article one, chapter twenty-one of this code, which
29 includes:

30 (A) Occupational Safety and Health Review Commission provided in article three-a,
31 chapter twenty-one of this code; and

32 (B) Board of Manufactured Housing Construction and Safety provided in article nine,
33 chapter twenty-one of this code;

34 (2) Office of Miners' Health, Safety and Training provided in article one, chapter twenty-
35 two-a of this code. The following boards are transferred to the Office of Miners' Health, Safety
36 and Training for purposes of administrative support and liaison with the office of the Governor:

37 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review
38 Committee provided in article six, chapter twenty-two-a of this code;

39 (B) Board of Miner Training, Education and Certification provided in article seven, chapter
40 twenty-two-a of this code; and

41 (C) Mine Inspectors' Examining Board provided in article nine, chapter twenty-two-a of this
42 code;

43 (3) The West Virginia Development Office provided in article two, chapter five-b of this
44 code;

45 (4) Division of Natural Resources and Natural Resources Commission provided in article
46 one, chapter twenty of this code;

47 (5) Division of Forestry provided in article one-a, chapter nineteen of this code;

48 (6) Geological and Economic Survey provided in article two, chapter twenty-nine of this
49 code; and

50 (7) Workforce West Virginia provided in chapter twenty-one-a of this code, which includes:

51 (A) Division of Unemployment Compensation;

52 (B) Division of Employment Service;

53 (C) Division of Workforce Development; and

54 (D) Division of Research, Information and Analysis.

55 (8) Division of Energy provided in article two-f, chapter five-b of this code; and

56 (9) Division of Tourism and the Tourism Commission provided in article two-h, chapter
57 five-b of this code.

58 (c) The Economic Development Authority provided in article fifteen, chapter thirty-one of
59 this code is continued as an independent agency within the executive branch.

60 (d) The Water Development Authority and the Water Development Authority Board
61 provided in article one, chapter twenty-two-c of this code is continued as an independent agency
62 within the executive branch.

63 (e) The following agencies and boards, including all of the allied, advisory and affiliated
64 entities, are transferred to the Department of Environmental Protection for purposes of
65 administrative support and liaison with the office of the Governor:

66 (1) Air Quality Board provided in article two, chapter twenty-two-b of this code;

67 (2) Solid Waste Management Board provided in article three, chapter twenty-two-c of this
68 code;

69 (3) Environmental Quality Board, or its successor board, provided in article three, chapter
70 twenty-two-b of this code;

71 (4) Surface Mine Board provided in article four, chapter twenty-two-b of this code;

72 (5) Oil and Gas Inspectors' Examining Board provided in article seven, chapter twenty-
73 two-c of this code;

74 (6) Shallow Gas Well Review Board provided in article eight, chapter twenty-two-c of this
75 code; and

76 (7) Oil and Gas Conservation Commission provided in article nine, chapter twenty-two-c
77 of this code.

78 (f) The following agencies and boards, including all of the allied, advisory, affiliated or
79 related entities and funds associated with any agency or board, are incorporated in and
80 administered as a part of the Department of Education and the Arts:

81 (1) Library Commission provided in article one, chapter ten of this code;

82 (2) Division of Culture and History provided in article one, chapter twenty-nine of this code;

83 and

84 (3) Division of Rehabilitation Services provided in article ten-a, chapter eighteen of this
85 code.

86 (g) The Educational Broadcasting Authority provided in article five, chapter ten of this
87 code, is part of the Department of Education and the Arts for purposes of administrative support
88 and liaison with the office of the Governor.

89 (h) The following agencies and boards, including all of the allied, advisory, affiliated or
90 related entities and funds associated with any agency or board, are incorporated in and
91 administered as a part of the Department of Health and Human Resources:

92 (1) Human Rights Commission provided in article eleven, chapter five of this code;

93 (2) Division of Human Services provided in article two, chapter nine of this code;

94 (3) Bureau for Public Health provided in article one, chapter sixteen of this code;

95 (4) Office of Emergency Medical Services and Emergency Medical Service Advisory
96 Council provided in article four-c, chapter sixteen of this code;

97 (5) Health Care Authority provided in article twenty-nine-b, chapter sixteen of this code;

98 (6) Commission on Mental Retardation provided in article fifteen, chapter twenty-nine of
99 this code;

100 (7) Women's Commission provided in article twenty, chapter twenty-nine of this code; and

101 (8) The Child Support Enforcement Division provided in chapter forty-eight of this code.

102 (i) The following agencies and boards, including all of the allied, advisory, affiliated or
103 related entities and funds associated with any agency or board, are incorporated in and
104 administered as a part of the Department of Military Affairs and Public Safety:

105 (1) Adjutant General's Department provided in article one-a, chapter fifteen of this code;

106 (2) Armory Board provided in article six, chapter fifteen of this code;

107 (3) Military Awards Board provided in article one-g, chapter fifteen of this code;

108 (4) West Virginia State Police provided in article two, chapter fifteen of this code;

109 (5) Division of Homeland Security and Emergency Management and Disaster Recovery
110 Board provided in article five, chapter fifteen of this code and Emergency Response Commission
111 provided in article five-a of said chapter;

112 (6) Sheriffs' Bureau provided in article eight, chapter fifteen of this code;

113 (7) Division of Justice and Community Services provided in article nine-a, chapter fifteen
114 of this code;

115 (8) Division of Corrections provided in chapter twenty-five of this code;

116 (9) Fire Commission provided in article three, chapter twenty-nine of this code;

117 (10) Regional Jail and Correctional Facility Authority provided in article twenty, chapter
118 thirty-one of this code; and

119 (11) Board of Probation and Parole provided in article twelve, chapter sixty-two of this
120 code.

121 (j) The following agencies and boards, including all of the allied, advisory, affiliated or
122 related entities and funds associated with any agency or board, are incorporated in and
123 administered as a part of the Department of Revenue:

124 (1) Tax Division provided in chapter eleven of this code;

125 (2) Racing Commission provided in article twenty-three, chapter nineteen of this code;

126 (3) Lottery Commission and position of Lottery Director provided in article twenty-two,
127 chapter twenty-nine of this code;

128 (4) Insurance Commissioner provided in article two, chapter thirty-three of this code;

129 (5) West Virginia Alcohol Beverage Control Commissioner provided in article sixteen,
130 chapter eleven of this code and article two, chapter sixty of this code;

131 (6) Board of Banking and Financial Institutions provided in article three, chapter thirty-one-
132 a of this code;

133 (7) Lending and Credit Rate Board provided in chapter forty-seven-a of this code;

134 (8) Division of Banking provided in article two, chapter thirty-one-a of this code;

135 (9) The State Budget Office provided in article two of this chapter code;

136 (10) The Municipal Bond Commission provided in article three, chapter thirteen of this
137 code;

138 (11) The Office of Tax Appeals provided in article ten-a, chapter eleven of this code; and

139 (12) The State Athletic Commission provided in article five-a, chapter twenty-nine of this
140 code.

141 (k) The following agencies and boards, including all of the allied, advisory, affiliated or
142 related entities and funds associated with any agency or board, are incorporated in and
143 administered as a part of the Department of Transportation:

144 (1) Division of Highways provided in article two-a, chapter seventeen of this code;

145 (2) Parkways, Economic Development and Tourism Authority provided in article sixteen-
146 a, chapter seventeen of this code;

147 (3) Division of Motor Vehicles provided in article two, chapter seventeen-a of this code;

148 (4) Driver's Licensing Advisory Board provided in article two, chapter seventeen-b of this
149 code; and

150 ~~(5) Aeronautics Commission provided in article two-a, chapter twenty-nine of this code;~~

151 ~~(6) State Rail Authority provided in article eighteen, chapter twenty-nine of this code; and~~

152 ~~(7) Public Port Authority provide in article eighteen, chapter seventeen of this code.~~

153 West Virginia Division of Multimodal Transportation provided in article sixteen-f, chapter
154 seventeen of this code.

155 (l) The Veterans' Council provided in article one, chapter nine-a of this code, including all
156 of the allied, advisory, affiliated or related entities and funds associated with it is, incorporated in
157 and administered as part of the Department of Veterans' Assistance.

158 (m) Except for powers, authority and duties that have been delegated to the secretaries
159 of the departments by the provisions of section two of this article, the position of administrator and
160 the powers, authority and duties of each administrator and agency are not affected by the
161 enactment of this chapter.

162 (n) Except for powers, authority and duties that have been delegated to the secretaries of
163 the departments by the provisions of section two of this article, the existence, powers, authority
164 and duties of boards and the membership, terms and qualifications of members of the boards are
165 not affected by the enactment of this chapter. All boards that are appellate bodies or are
166 independent decision makers shall not have their appellate or independent decision-making
167 status affected by the enactment of this chapter.

168 (o) Any department previously transferred to and incorporated in a department by prior
169 enactment of this section means a division of the appropriate department. Wherever reference is
170 made to any department transferred to and incorporated in a department created in section two,
171 article one of this chapter, the reference means a division of the appropriate department and any

172 reference to a division of a department so transferred and incorporated means a section of the
173 appropriate division of the department.

174 (p) When an agency, board or commission is transferred under a bureau or agency other
175 than a department headed by a secretary pursuant to this section, that transfer is solely for
176 purposes of administrative support and liaison with the office of the Governor, a department
177 secretary or a bureau. Nothing in this section extends the powers of department secretaries under
178 section two of this article to any person other than a department secretary and nothing limits or
179 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
180 code.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 16F. WEST VIRGINIA DIVISION OF MULTIMODAL TRANSPORTATION.

§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 of
2 implementation of the state's intermodal transportation goals and reduce relating costs by
3 consolidating existing intermodal authorities to a single division, known as the West Virginia
4 Division of Multimodal Transportation, under the Secretary of Transportation pursuant to the
5 provisions of chapter five-f of this code. The Department of Transportation through the West
6 Virginia Division of Multimodal Transportation 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, 2017, the Public Port Authority, the West Virginia State Rail Authority and
10 the state Aeronautics Commission are reestablished, reconstituted and continued as the West
11 Virginia Division of Multimodal Transportation, an agency of the state. The purpose of the division
12 is to administer all federal and state programs related to public ports, railroad transportation and
13 commerce, aeronautics, airports and air navigation facilities in the State of West Virginia. The

14 powers and duties heretofore imposed upon the Public Port Authority, the West Virginia State Rail
15 Authority and the state Aeronautics Commission are transferred to and imposed upon the West
16 Virginia Division of Multimodal Transportation and its director in the manner prescribed by this
17 article.

18 (c) On July 1, 2017, persons employed by the Public Port Authority, the West Virginia
19 State Rail Authority and the state Aeronautics Commission, the duties and functions of which
20 have been transferred to the West Virginia Division of Multimodal Transportation, are assigned,
21 transferred and by affiliation are taken into the classified service. It is the intent of this article to
22 consolidate into the West Virginia Division of Multimodal Transportation those entities and
23 employees performing functions which will be facilitated by their consolidation. The Department
24 of Transportation shall provide appropriate office locations necessary to fulfill the functions of the
25 division.

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

§17-16F-2. Director of division; qualifications; powers and duties.

1 (a) The Secretary of the Department of Transportation shall appoint the director of the
2 division. The director shall be a person knowledgeable of multimodal transportation in the state,
3 including public ports, railroads and aeronautics.

4 (b) The director shall:

5 (1) Administer the operations of the division, consistent with the provisions of this article,
6 by allocating the functions and activities of the division among sections;

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

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

11 (4) Assist the Governor and Secretary of the Department of Transportation in multimodal
12 transportation matters; and

13 (5) Make an annual report to the Governor and Legislature and all other special or periodic
14 reports as may be required.

§17-16F-3. Definitions.

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

2 (a) "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; and
5 the design, establishment, construction, extension, operation, improvement, repair or
6 maintenance of airports or other air navigation facilities.

7 (b) "Aircraft" means any contrivance now known, or hereafter invented, used or designed
8 for navigation of or flight in the air.

9 (c) "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 (d) "Air navigation facility" means any facility other than one owned or controlled by the
12 federal government used in, available for use in, or designed for use in aid of air navigation,
13 including airports, and any structures, mechanisms, lights, beacons, markers, communications
14 system or other instrumentalities or devices used or useful as an aid or constituting an advantage
15 or 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 (e) "Airport" means any area of land or water which is used, or intended for use, for the
18 landing and takeoff of aircraft and any appurtenant areas which are used, or intended for use, for
19 airport buildings or other airport facilities or rights-of-way, together with all airport buildings and
20 facilities located thereon.

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

23 (g) "Commuter rail" means a transit mode that is an electric or diesel propelled railway for
24 urban passenger train service consisting of local short distance travel operating between a central
25 city and adjacent suburbs. Service must be operated on a regular basis by or under contract with
26 a transit operator for the purpose of transporting passengers within urbanized areas or between
27 urbanized areas and outlying areas. The rail service, using either locomotive-hauled or self-
28 propelled railroad passenger cars, is generally characterized by multitrip tickets, specific station-
29 to-station fares or railroad employment practices and usually has only one or two stations in the
30 central business district. It does not include heavy rail, rapid transit, light rail or streetcar transit
31 service. Intercity rail service is excluded except for that portion of service operated by or under
32 contract with a public transit agency for predominantly commuter services. Only the predominantly
33 commuter service portion of an intercity route is eligible for inclusion when determining commuter
34 rail route miles.

35 (h) "Development plan" means a document which details the overall strategy of the division
36 for the proper planning and sustainable development of an area and consists of a written
37 statement and accompanying maps. The plan usually includes the broad aims of the division for
38 infrastructure projects and intermodal facilities which are reinforced by more detailed policies and
39 objectives.

40 (i) "Heavy rail" means a transit mode that is an electric railway with the capacity for a heavy
41 volume of traffic. It is characterized by high speed and rapid acceleration passenger rail cars

42 operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other
43 vehicular and foot traffic are excluded, sophisticated signaling and high platform loading.

44 (j) "Income" means and includes all money accruing to the division from any source.

45 (k) "Intermodal transportation" means the successive transport of goods or passengers
46 using more than one mode of transportation, including air, rail, ship or roadway.

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

52 (m) "Multimodal transportation" means the consideration or connection of various modes
53 of transportation, including air, rail, ship or roadway, with the goal of unifying and developing
54 transportation in the state.

55 (n) "Municipality" means any county, city, town, village or other political subdivision of this
56 state.

57 (o) "Municipal" means pertaining to a municipality.

58 (p) "Operation fund" means the special West Virginia Public Port Operation Fund as
59 created by section twelve of this article.

60 (q) "Operation of aircraft" or "operate aircraft" means the use, navigation or piloting of
61 aircraft in the airspace over this state or upon the ground within this state.

62 (r) "Owner" means and includes all individuals, copartnerships, 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 (s) "Person" means any individual, firm, copartnership, corporation, partnership, company,
67 foreign or domestic association, including railroads, joint stock association or body politic and
68 includes any trustee, receiver, assignee or other similar representative.

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

75 (v) "Public port development" or "public port project" means any activities which are
76 undertaken with respect to public ports.

77 (w) "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 (x) "Rail service" means both freight and passenger service.

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

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

91 (bb) “West Virginia Commuter Rail Access Fund” means the special West Virginia
92 Commuter Rail Access Fund as created by section twenty-seven of this article.

93 (cc) “West Virginia Railroad Maintenance Fund” means the West Virginia Railroad
94 Maintenance Fund as created by section seventeen of this article.

95 (dd) The singular of any of the above defined terms shall include the plural and plural the
96 singular.

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

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

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

5 (b) To initiate preservation of railroad, waterway and airway facilities, to promote economic
6 development and tourism in this state;

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

12 (e) 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 the 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 used
18 for such purpose;

19 (f) 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 (g) 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 (h) To acquire, by gift or purchase, lease, sell or otherwise dispose of real and personal
33 property in the exercise of its powers and the performance of its duties as set forth in this article;

34 (i) To act on behalf of the state and to represent the state in the planning, financing,
35 development, construction and operation of any port, railroad or aeronautics project or any facility
36 related to any such project, with the concurrence of the affected public agency. Other state
37 agencies and local governmental entities in this state shall cooperate to the fullest extent the
38 division deems appropriate to effectuate the duties of the division;

39 (j) 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 (k) 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 section seventeen of this
45 article;

46 (l) To report annually to the Legislature on December 31 of each year the status of
47 projects, operations, financial condition and other necessary information relating to the statewide
48 intermodal transportation system and public port activities in accordance with this article;

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

53 (n) To apply for and accept loans, grants or gifts of money, property or service from the
54 United States or the State of West Virginia or any political subdivision from any public or private
55 sources available for any and all of the purposes authorized in this article or imposed thereon by
56 any such federal agency, the State of West Virginia or any political subdivision, or any public or
57 private lender or donor, to give such evidences of indebtedness as may be required and to permit
58 the state Board of Investments to invest, as provided by this code, any funds received by the
59 division pursuant to the provisions of this code;

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

64 (p) To issue revenue bonds or request other appropriate state agencies to issue and
65 administer revenue bonds to finance port, railroad or aeronautics projects; and

66 (q) To collect reasonable fees and charges in connection with making and servicing loans,
67 notes, bonds, obligations, commitments and other evidence of indebtedness, and in connection
68 with providing technical, consulting and project assistance services.

§17-16F-5. Rules of division.

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

4 (b) The division, upon consultation with the Department of Transportation, may propose
5 legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this
6 code to implement the purposes of this article. The division shall promulgate any necessary
7 emergency rules to implement the provisions of this article pursuant to the provisions of section
8 fifteen, article three, chapter twenty-nine-a of this code.

§17-16F-6. Annual report.

1 (a) The division shall prepare and file a comprehensive report annually on December 31
2 with the Governor and the Legislature setting forth the overall strategic plan both short term and
3 long term for accomplishing the purposes set forth in this article. Incidental to the development
4 of a comprehensive strategic plan for intermodal transportation, the division shall analyze the
5 intermodal shipment of products and passengers through the state, and shall be authorized to
6 collect and analyze such information, which is maintained in the ordinary course of business by
7 the person, firm or corporation providing such information, pertaining to the transportation of
8 products and passengers which has been moved by rail, water or air to and from points within
9 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. The division shall not publicly disclose this information and data to
13 any person, firm, corporation or agent. It is unlawful for any employee of this state to divulge or
14 make known in any manner any information obtained pursuant to this subsection or disclose
15 information concerning the personal or business affairs of any individual or the business of any
16 single firm or corporation, or disclose any particulars set forth or disclosed in any report or other
17 information provided to the division. Violation of this subsection by any employee or former

18 employee will result in a misdemeanor, and upon conviction thereof, is punishable by a fine of not
19 more than \$1,000 or by imprisonment for not more than one year, or by both, together with costs
20 of prosecution.

§17-16F-7. Financial interest in contracts prohibited; penalty.

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

§17-16F-8. Public purpose of activities; property of public utilities and common carriers.

1 (a) The division shall be granted power to acquire any lands or interests pursuant to this
2 article. The planning, acquisition, establishment, construction, improvement, maintenance and
3 operation of public port, railroad, airport or air navigation facilities, whether by the state separately
4 or 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
7 of the state in the manner and for the purposes enumerated in this article shall be declared to be
8 acquired 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 sole 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 and 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. When relocating or removing facilities, the railroad or public utility owning
23 or operating them, and its successors or assigns, shall maintain and operate such facilities, with
24 the necessary appurtenances in the new location in, on, over or under the property of the division
25 for as long a period and upon the same terms as it had the right to maintain and operate such
26 facilities in their former location.

27 (d) In the condemnation of property authorized by this section, the division shall proceed
28 in the name of the state in the manner provided by chapter fifty-four of this code.

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

1 (a) The division shall foster and encourage the participation of private enterprise in the
2 development of railroad, waterway and airway facilities to the fullest extent it deems practicable
3 in the interest of limiting the necessity of construction and operation of such facilities by the
4 division. In this respect, the division shall advertise and solicit for the construction, operation,
5 maintenance or a combination of any facility included in the development plan in accordance to
6 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-10. 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-11. Additional powers and duties of division related to port projects.

1 (a) The division shall act on behalf of the state on submitting siting proposals for public
2 ports and shall seek coordination, cooperation and feasibility studies from local and area port
3 authority districts, committees and entities.

4 (b) The division shall construct, reconstruct, improve, maintain, repair and operate
5 infrastructure projects at the designated port sites.

6 (c) The division shall coordinate all aspects of the submission of a siting proposal for any
7 port project and coordinate the development of any project or any facility related to any project
8 with the federal government agency.

**§17-16F-12. Special West Virginia Public Port Operations Fund; West Virginia Multimodal
Division Operations Fund.**

1 The special West Virginia Public Port Authority Operations Fund created by prior
2 enactment of section seven, article sixteen-b of this chapter, is continued and shall be known as
3 the West Virginia Multimodal Division Operations Fund which shall be administered by the director
4 of the division. 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.

**§17-16F-13. Designation of local port authority districts, powers and duties; development
plan.**

1 (a) Upon application by a local governmental entity, groups of local governmental entities
2 or joint venture of local government entity or entities and private industry, the division shall grant
3 authority for the creation of a local inland port authority district. In authorizing such entities,
4 political subdivisions of this state are authorized to join with other political subdivisions of this and
5 sister states to form local port authorities. In deciding on a local port district designation,
6 consideration shall be given to the following:

7 (1) Areas which have entered into a joint venture with private industry;

8 (2) Areas for which the political subdivision(s) seeking designation has made or will make
9 the greatest effort, both financially and otherwise, to encourage the establishment of facilities to
10 enhance the efficiency and cost of moving goods and services to and from markets in West
11 Virginia, or will make the greatest effort to encourage the construction and completion of
12 infrastructure projects, including all types of transportation systems.

13 (b) A local port authority district as provided in this article may establish a local board of
14 directors and has powers only as provided for by the state board of directors. The powers of a
15 local port authority district will not supersede the powers of the state authority.

16 (c) Local board of directors of a port authority district shall prepare a development plan.

§17-16F-14. Additional powers and duties of division related to railroad projects.

1 (a) The division shall facilitate railroad transportation and commerce within the state by
2 exercising those powers of the state necessary to qualify for rail services continuation subsidies
3 pursuant to the provisions of the federal Fixing America's Surface Transportation Act of 2015 and
4 any future amendments and regulations from the federal government.

5 (b) The division shall carry out railroad projects or direct railroad projects to be carried out
6 pursuant to a lease, sublease or agreement with any person or governmental agency; shall make
7 loans and grants to or with governmental agencies or to persons for railroad projects; and shall
8 issue bonds of this state, payable solely from revenues, to pay the cost of such projects. The

9 division will not undertake a railroad project unless it is consistent with any applicable
10 development plans for railroad projects previously approved by the division.

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

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

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

16 (f) The division shall make and enter into contracts and agreements to acquire rolling stock
17 or equipment with a value of \$500,000 or less exempt from the provisions of article three, chapter
18 five-a of this code. The division shall purpose rules for promulgation for adoption by the
19 Legislature with the provisions of article three, chapter twenty-nine-a of this code which set forth
20 the methods for determining value of rolling stock or equipment to be purchased.

21 (1) Where rolling stock, equipment or trackage of the division is in need of immediate
22 maintenance, repair or reconstruction to avoid a cessation of its operations, economic loss, the
23 inability to provide essential service to customers or danger to division personnel or the public,
24 the following requirements and procedures for entering into the contract or agreement to remedy
25 the condition shall be in lieu of those provided in article three, chapter five-a of this code or any
26 pursuant promulgated legislative rule:

27 (i) If the cost under the contract or agreement involves an expenditure of more than
28 \$1,000, but \$10,000 or less, the division shall award the contract to or enter into the agreement
29 with the lowest responsible bidder based upon at least three oral bids made pursuant to the
30 requirements of the contract or agreement.

31 (ii) If the cost under the contract or agreement, other than one for compensation for
32 personal services, involves an expenditure of more than \$10,000, but \$100,000 or less, the
33 division shall award the contract to or enter into the agreement with the lowest responsible bidder

34 based upon at least three bids, submitted to the division in writing on letterhead stationery, made
35 pursuant to the requirements of the contract or agreement.

36 (2) Notwithstanding any provision of this code to the contrary, a contract or lease for the
37 operation of a railroad project constructed and owned by the division or an agreement for
38 cooperation in the acquisition or construction of a railroad project authorized by this article is not
39 subject to the provisions of article three, chapter five-a of this code or any pursuant promulgated
40 legislative rule and the division shall enter into the contract or lease or the agreement pursuant to
41 negotiation and upon such terms and conditions and for a period of time as it finds to be
42 reasonable and proper under the circumstances and in the best interests of proper operation or
43 of efficient acquisition or construction of the railroad project.

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

47 (g) The division shall purchase fire and extended coverage and liability insurance for any
48 railroad project, and for any offices of the division insurance protecting the division, officers and
49 employees against liability, if any, for damage to property or injury to or death of persons arising
50 from its operations and be a member of, and to participate in, the state workers' compensation
51 insurance.

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

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

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

59 (k) The division shall enter into agreements with owners of rail properties for the acquisition
60 of rail properties or use, or both, of rail properties upon the terms, conditions, rates or rentals that
61 can best effectuate the purposes of this article.

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

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

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

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

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

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

§17-16F-15. Additional authority in regard to the Maryland Area Regional Commuter.

1 (a) The division shall coordinate all activities with the Maryland Transit Administration to
2 assure the continued operation of the Maryland Area Regional Commuter into the eastern
3 panhandle of the state.

4 (b) The division shall negotiate agreements with the state of Maryland or the Maryland
5 Transit Administration for the continued operation of the commuter rail operation between
6 Maryland, the Washington D. C. metropolitan area and West Virginia. The commuter rail

7 operation agreement shall provide for quantity and quality of commuter rail service, including
8 minimum daily services at least equivalent to the level of service on July 12, 2013, unless daily
9 ridership diminishes significantly. The agreement may provide for the payment of track access
10 fees attributed to commuter rail operation within the boundaries of the state. Any payments of
11 track access fees pursuant to the agreement shall be paid from the fund created in section twenty-
12 seven of this article as provided by appropriation of the Legislature.

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

1 (a) The division shall 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 corporation
3 for continued operation of a railroad or other public purpose: *Provided*, That approval for the
4 continued operation or other public purpose, is granted by the Surface Transportation Board of
5 the United States, whenever approval is required. The sale, transfer or lease shall be for a price
6 and subject to any further terms and conditions which the division feels are necessary and
7 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 and all related title matters. The division
17 shall retain attorneys, experts or other assistants, and issue any contracts as are necessary to
18 make 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
24 and 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 give
27 consideration to the individual interest of any county or municipality expressing a desire to acquire
28 a portion, or all, of the abandoned real estate located within its jurisdiction. The division shall
29 acquire the abandoned property for subsequent conveyance to the county or municipality.

30 (g) The division shall 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 shall
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 shall 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 shall 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 shall also acquire and
40 have available a pool of equipment and machinery which may be utilized by the operators of the
41 rail properties for the purpose of track maintenance and other related railroad activities upon terms
42 and conditions determined by the division. Notwithstanding the provisions of sections forty-eight
43 through fifty-three, inclusive, article three, chapter five-a of this code to the contrary, the division
44 shall enter into contracts or agreements for the lease or purchase and maintenance of any

45 vehicles required for its purposes with the Division of Highways. For those purposes, the Division
46 of Highways shall enter into contracts or agreements for the lease or purchase and maintenance
47 of any vehicles with the division.

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

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

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

§17-16F-17. Railroad Maintenance Authority Fund; Rail Maintenance Fund.

1 The Railroad Maintenance Authority Fund, created by prior enactment of section eight,
2 article eighteen, chapter twenty-nine of this code, is continued and shall be known as the Railroad

3 Maintenance Fund. The director shall administer the Railroad Maintenance Fund. Expenditures
4 are authorized from collections, but are to be made only in accordance with appropriation by the
5 Legislature and in accordance with the provisions of article three, chapter twelve of this code and
6 upon fulfillment of the provisions of article two, chapter eleven-b of this code. Any balance
7 remaining in the special revenue account at the end of any state fiscal year does not revert to the
8 General Revenue Fund but remains in the special revenue account and shall be used solely in a
9 manner consistent with this article. All costs and expenses incurred pursuant to this article,
10 including administrative, shall be paid from those funds.

§17-16F-18. Division empowered to issue bonds, renewal notes and refunding bonds;
requirements and manner of such issuance.

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

6 (b) The division shall issue renewal notes, issue bonds to pay the notes and whenever it
7 deems refunding expedient, refund any bonds by the issuance of railroad maintenance revenue
8 refunding bonds of the state, whether the bonds to be refunded have or have not matured, and
9 issue bonds partly to refund bonds then outstanding and partly for any other authorized purpose.
10 The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or
11 payment of the bonds to be refunded. Except as may otherwise be expressly provided by the
12 division, every issue of its bonds or notes are obligations of the division payable out of the
13 revenues of the division, which are pledged for such payment, without preference or priority of
14 the first bonds issued, subject only to any agreements with the holders of particular bonds or
15 notes pledging any particular revenues. Such pledge is valid and binding from the time the pledge
16 is made and the revenue so pledged and thereafter received by the division is immediately subject

17 to the lien of such pledge without any physical delivery or further act and the lien of any such
18 pledge is valid and binding as against all parties having claims of any kind in tort, contract or
19 otherwise against the division irrespective of whether the parties have notice.

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

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

39 (e) Any authorization of any bonds or notes or any issue shall contain provisions, subject
40 to agreements with bondholders or noteholders as may then exist, which provisions shall be a
41 part of the contract with the holders, as to pledging all or any part of the revenues of the division
42 to secure the payment of the bonds or notes or of any issue; the use and disposition of revenues

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

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

§17-16F-19. Trustee for bondholders; contents of trust agreement.

1 (a) In the discretion of the division, any railroad maintenance bonds or notes or railroad
2 maintenance refunding bonds issued by the division under this article may be secured by a trust

3 agreement between the division and a corporate trustee, which trustee may be any trust company
4 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 division to be
6 received, but shall not convey or mortgage any railroad project in whole or in part. Any such trust
7 agreement or any authorization providing for the issuance of such bonds or notes may contain
8 such provisions for protecting and enforcing the rights and remedies of the bondholders or
9 noteholders as are reasonable and proper and not in violation of law, including covenants setting
10 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 division deems reasonable
22 and proper for the security of the bondholders or noteholders. All expenses incurred in carrying
23 out the provisions of any trust agreement may be treated as a part of the cost of the operation of
24 the railroad project. Any trust agreement or authorization of the issuance of railroad maintenance
25 revenue bonds may provide the method whereby the general administrative overhead expenses
26 of the division shall be allocated among the several projects acquired or constructed by it as a
27 factor of the operating expenses of each such project.

§17-16F-20. 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 division
8 or any employee, including the fixing, charging and collecting of sufficient rentals or other charges.

**§17-16F-21. 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 have
5 no right to have taxes levied by the Legislature or taxing authority of any county, municipality or
6 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
12 effect that the bonds or notes, as to both principal and interest, are not debts of the state or any
13 county, municipality or political subdivision, but are payable solely from revenues and funds
14 pledged for 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 authorize to incur

17 indebtedness or liability on behalf of or payable by the state or any county, municipality or political
18 subdivision.

§17-16F-22. 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 its
4 powers and duties, and shall be used and reused in accordance with the purposes and provisions
5 of this article. Such moneys may at no time be commingled with other public funds. Such
6 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 section twenty-three of this article, shall be kept in appropriate depositories
9 and secured as provided and required by law. The authorization of the issuance of bonds of any
10 issue or the trust agreement securing bonds shall provide that any person to whom, or any
11 banking institution or trust company to which, moneys are paid shall act as trustee of such moneys
12 and hold and apply them for the purposes hereof, subject to the conditions this article and the
13 authorization or trust agreement provide.

§17-16F-23. Investment of funds by division.

1 Funds of the division in excess of current needs, except as otherwise provided in any
2 authorization for the issuance of its railroad maintenance revenue bonds or in any trust agreement
3 securing the same, may be invested by the West Virginia Investment Management Board as
4 authorized to invest under article six, chapter twelve of this code. Income from all such
5 investments of moneys in any fund shall be credited to such funds as the division determines,
6 subject to the provisions of any authorization or trust agreement and such investments may be
7 sold at such times as the division determines.

§17-16F-24. 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 be subject to supervision, or regulation by any other division, authority,
6 department, commission, board, bureau or agency of the state, and the contract may provide for
7 acquisition by a person or governmental agency of all or any part of a railroad project for
8 consideration payable over the period of the contract or otherwise as the division in its sole
9 discretion determines to be appropriate, but subject to the provisions of any authorized issue of
10 railroad maintenance revenue bonds or notes or railroad maintenance revenue refunding bonds
11 of the division or any trust agreement securing the same. Any governmental agency which has
12 power to construct, operate and maintain railroad projects may enter into a contract or lease with
13 the division whereby the use or services of any railroad project of the division will be made
14 available to such governmental agency and pay for such use or services such rentals or other
15 charges as may be 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 division. Any governmental agency may provide such contribution as is
25 required under such agreements by the appropriation of money or, if authorized by a favorable
26 vote of the electors to issue bonds or notes or levy taxes or assessments and issue notes or

27 bonds in anticipation of the collection, by the issuance of bonds or notes or by the levying of taxes
28 or 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-25. Maintenance, operation and repair of projects.

1 Each railroad project, when constructed and placed in operation, shall be maintained and
2 kept in good condition by the division. Each project shall be operated by division employees
3 pursuant to a contract or lease with a governmental agency or person. All public or private
4 property damaged or destroyed while carrying out the provisions of this article shall be restored
5 or repaired to its original condition, or as nearly as practicable or adequate compensation made
6 out of funds provided in accordance with the provisions of this article.

§17-16F-26. Railroad maintenance bonds lawful investments.

1 By the provisions of article six, chapter twelve of this code, notwithstanding any code
2 section to the contrary, all railroad maintenance revenue bonds issued pursuant to this article are
3 lawful investments for the West Virginia Investment Management Board and are also lawful

4 investments for banking institutions, societies for savings, building and loan associations, savings
5 and loan associations, deposit guarantee associations, trust companies, insurance companies,
6 including domestic for life and domestic not for life insurance companies.

§17-16F-27. 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 director and shall consist of
3 appropriations by the Legislature. Subject to legislative appropriation, the director 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
6 in ensuing fiscal years.

§17-16F-28. 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-29. Additional powers and duties of division related to aeronautics, airport and
air navigation projects.**

1 The division shall encourage, foster and assist in the development of aeronautics in this
2 state and encourage the establishment of airports and air navigation facilities. It shall cooperate
3 with and assist the federal government, the municipalities of this state and other persons in the
4 development of aeronautics and shall act to coordinate the aeronautical activities of these bodies
5 and persons. Municipalities are authorized to cooperate with the division in developing
6 aeronautics and aeronautics facilities in this state. The division is given the power and authority
7 to make such policies as it may consider necessary and advisable for the public safety, governing

8 the designing, laying out, locating, building, equipping and operating of all airports and the conduct
9 of all other phases of aeronautics.

§17-16F-30. Expenses of Civil Air Patrol; division shall expend funds pursuant to rule-making authority.

1 (a) The division, in addition to all other powers and functions authorized by law, shall
2 expend state funds: (1) For educational purposes of the Civil Air Patrol, including, but not limited
3 to, the purchase of Civil Air Patrol aviation education training aid books, materials and equipment;
4 (2) to defray maintenance, repair and replacement costs of Civil Air Patrol aircraft; (3) to purchase
5 and obtain supplies and equipment for the Civil Air Patrol; and (4) to maintain the communications
6 network for the Civil Air Patrol.

7 (b) The division shall purpose rules for promulgation for adoption by the Legislature with
8 the provisions of article three, chapter twenty-nine-a of this code which set forth the methods for
9 determining value for the purposes listed in subsection (a).

§17-16F-31. 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, shall make funds available by grant or otherwise to counties, municipalities and regional
3 airport authorities, created under the provisions of chapter eight 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-32. 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 shall 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 shall 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, rules and regulations and with this article. Such moneys paid by the United
20 States shall be retained by the state or said municipalities under such terms and conditions as
21 may be imposed by the United States in making such grants.

22 (c) All contracts for the planning, acquisition, construction, improvement, maintenance and
23 operation of airports, or other air navigation facilities made by the division, either as the agent of
24 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, rules or regulations of the United States for the expenditure of federal moneys upon
45 such airports and other air navigation facilities.

§17-16F-33. Federal license required for operation of aircraft.

1 (a) No person shall operate or cause or authorize to be operated any aircraft within this
2 state unless such aircraft has an appropriate effective certificate, permit or license issued by the
3 United States, if such certificate, permit or license is required by the United States; nor shall any
4 person engage in aeronautics as an airman in this state unless he or she has an appropriate
5 effective airman certificate, permit, rating or license issued by the United States authorizing him

6 or her to engage in the particular class of aeronautics in which he or she is engaged, if such
7 certificate, permit, rating or license is required by the United States.

8 (b) Where a certificate, permit, rating or license is required for an airman by the United
9 States, it shall be kept in his or her personal possession when he or she is operating within this
10 state and shall be presented for inspection upon the demand of any police officer or any other
11 officer of the state or of a municipality or member, official, or employee of the division authorized
12 under this article to enforce the aeronautics law of this state, or any official, manager or person in
13 charge of any airport upon which the certificate, permit or license is required by the United States
14 for an aircraft, it shall be carried in the aircraft at all times while the aircraft is operating in the
15 state, shall be conspicuously posted in the aircraft where it may readily be seen by passengers
16 or inspectors, and shall be presented for inspection upon the demand of any police officer, or any
17 other officer of the state or of a municipality or member, official or employee of the division
18 authorized under this article to enforce the aeronautics laws of this state, or any official, manager
19 or person in charge of any airport upon which the aircraft shall land, or upon the reasonable
20 request of any person.

§17-16F-34. 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.

§17-16F-35. 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 article two, chapter twelve of this code,
3 and shall be deposited in a separate account and be used and expended only to carry out the
4 provisions of this article. The fees or other moneys so paid into the State Treasury shall constitute
5 and be treated as an excepted fund, and all of the provisions of section two, article two, chapter
6 twelve of this code, applicable to the funds excepted from the general provisions for the deposit

7 and payment of state funds, shall be applicable to the fund derived from collections made pursuant
8 to the provisions of this article.

§17-16F-36. 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.

Strike-throughs indicate language that would be stricken from a heading or the present law
and underscoring indicates new language that would be added.