

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

Committee Substitute

for

Senate Bill 434

BY SENATORS NELSON, JEFFRIES, TAKUBO, SWOPE, AND

LINDSAY

[Passed March 11, 2022; in effect 90 days from passage]

1 AN ACT to amend and reenact §8-28-5 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §8-29-1, §8-29-3, §8-29-8, §8-29-9, §8-29-12, §8-29-17, and §8-29-20 of said
3 code; to amend said code by adding thereto a new section, designated §8-29-8a; and to
4 amend and reenact §8-29B-2, §8-29B-3, and §8-29B-5 of said code, relating generally to
5 airport authorities and operations; increasing the criminal fine for vehicular and pedestrian
6 traffic near airports; authorizing airport authorities to establish and operate international
7 and ancillary airports; defining terms; clarifying that certain airports may be established
8 near research or business parks; expanding the powers and authority of airport authorities
9 related to acquisition and use of property; establishing a procedure for the disposition of
10 derelict or abandoned aircraft; providing airport authorities with a lien on a derelict or
11 abandoned aircraft; providing for sale and disposal of abandoned and derelict aircraft and
12 purchaser's ownership rights; authorizing airport authorities to promulgate rules to control
13 vehicular and pedestrian traffic; increasing criminal fines for violations of certain airport
14 rules and regulations; providing airport authorities with the right of immediate entry
15 following eminent domain; and expanding areas over which airport police have jurisdiction.

Be it enacted by the Legislature of West Virginia:

ARTICLE 28. INTERGOVERNMENTAL RELATIONS — AIRPORTS AND AVIGATION.

PART II. CONTROL OF VEHICULAR AND PEDESTRIAN

TRAFFIC NEAR AIRPORTS.

**§8-28-5. Rules and regulations to control vehicular and pedestrian traffic within quarter
mile of airport; violation of rule and regulation a misdemeanor; penalty.**

1 (a) The governing body or county court is hereby empowered and authorized to adopt and
2 promulgate rules and regulations to:

3 (1) Control the movement and disposition of vehicular and pedestrian traffic within 1/4 mile
4 of any building or installation of any airport owned or operated or owned and operated by any
5 such municipality or county court;

6 (2) Regulate and control vehicular parking within such areas by the installation of parking
7 meters or by other methods; and

8 (3) Impose reasonable charges for the use of the parking space so metered or otherwise
9 allocated, so as to provide maximum opportunity for the public use thereof.

10 (b) Violation of any such rule and regulation shall constitute a misdemeanor and, the
11 offender, upon conviction in the manner provided by law, may be fined not less than \$10 nor
12 more than \$30 for each such violation.

13 (c) Magistrates shall have concurrent jurisdiction with the circuit courts and with statutory
14 courts of record having criminal jurisdiction for the trial of offenses under this section.

ARTICLE 29. INTERGOVERNMENTAL RELATIONS — AIRPORTS.

§8-29-1. Airport authorities authorized; definitions.

1 (a) Any two or more municipalities, any two or more contiguous counties, or any county or
2 two or more contiguous counties and one or more municipalities located therein or partly therein,
3 of this state, are hereby authorized to create and establish one or more authorities for the purpose
4 of acquiring, establishing, constructing, equipping, improving, financing, maintaining, and
5 operating a regional airport or international airport and ancillary airports, as the case may be, for
6 the use of aircraft: *Provided*, That no such municipality or county shall participate in such authority
7 unless and until the governing body or county court so provides.

8 (b) As used in this article, the following terms have the following meanings:

9 (1) "Abandoned aircraft" means either:

10 (A) An aircraft left in a wrecked, inoperative, or partially dismantled condition on an airport
11 for 45 consecutive calendar days and without a contractual agreement in force between the owner
12 or operator of the aircraft and the airport authority for use of the airport premises; or

13 (B) An aircraft that has remained in an idle state on an airport for 45 consecutive calendar
14 days without a contractual agreement between the owner or operator of the aircraft and the airport
15 authority for use of the airport premises;

16 (2) "Aircraft" has the meaning provided in §29-2A-1 of this code;

17 (3) "Airport" means any airport, heliport, helistop, vertiport, gliderport, seaplane base,
18 ultralight flightpark, manned balloon launching facility, or other aircraft landing or takeoff area
19 operated by an airport operator as that term is defined in §8-29B-2(3);

20 (4) "Ancillary airport" means any airport, heliport, helistop, vertiport, gliderport, seaplane
21 base, ultralight flightpark, manned balloon launching facility, or other aircraft landing or takeoff
22 area that is owned and operated or operated by agreement by another authority as defined in §8-
23 29-1 of this code;(5) "Authority" means a regional airport authority created pursuant to the
24 provisions of this article;

25 (6) "Contiguous counties" means two or more counties which constitute a compact
26 territorial unit within an unbroken boundary wherein one county touches at least one other county
27 but does not require that each county touch all of the other counties so combining; and

28 (7) "Derelict aircraft" means any aircraft that is not in a flyable condition, does not have a
29 current certificate of air worthiness issued by the federal aviation administration, and whose owner
30 cannot produce satisfactory written documentation from a licensed third-party aircraft mechanic
31 evidencing that they have been hired to actively and fully repair the aircraft to both an airworthy
32 and properly registered condition within six calendar months from the date notice is given to the
33 owner.

**§8-29-3. Authorities empowered and authorized to acquire, operate, etc., airports and
develop industrial parks; state aeronautics commission.**

1 Each authority is hereby empowered and authorized to acquire, establish, construct,
2 equip, improve, finance, maintain, and operate an international airport, a regional airport, or other
3 airport or landing field and appurtenant facilities so located to best serve the region in which they

4 are located, including, but not limited to, industrial, research, and business parks. Each authority
5 shall be subject to the jurisdiction of the state aeronautics commission to the same extent as a
6 state or municipal airport.

PART II. GENERAL POWERS OF AUTHORITIES.

§8-29-8. Powers of authorities generally.

1 Each authority is hereby given plenary power and authority as follows:

2 (1) To make and adopt all necessary bylaws and rules for its organization and operations
3 not inconsistent with law;

4 (2) To elect its own officers, to appoint committees and to employ and fix the compensation
5 for personnel necessary for its operation;

6 (3) To enter into contracts with any person, including both public and private corporations,
7 or governmental department or agency, and generally to do any and all things necessary or
8 convenient for the purpose of acquiring, establishing, constructing, equipping, improving,
9 financing, maintaining, and operating a public airport to best serve the region in which it is located,
10 including the development of an industrial, research, or business park in the same general area;

11 (4) To delegate any authority given to it by law to any of its officers, committees, agents,
12 or employees;

13 (5) To apply for, receive, and use grants-in-aid, donations, and contributions from any
14 source or sources, including, but not limited to, the federal government and any department or
15 agency thereof, and this state subject to any Constitutional and statutory limitations with respect
16 thereto, and to accept and use bequests, devises, gifts, and donations from any person;

17 (6) To acquire, receive, take, and hold property, whether by purchase, gift, lease, devise,
18 or otherwise, and to use and manage said property, and to develop, improve, and maintain any
19 property owned, leased or controlled by it;

20 (7) To purchase, own, hold, sell, and dispose of personal property and to sell, lease, or
21 otherwise dispose of any real property which it may own;

22 (8) To borrow money and execute and deliver negotiable notes, mortgage bonds, other
23 bonds, debentures, and other evidences of indebtedness therefor, and give such security therefor
24 as shall be requisite, including giving a mortgage or deed of trust on its airport properties and
25 facilities or assigning or pledging the gross or net revenues therefrom;

26 (9) To raise funds by the issuance and sale of revenue bonds in the manner provided by
27 the applicable provisions of §8-16-1 *et seq.* of this code, it being hereby expressly provided that
28 for the purpose of the issuance and sale of revenue bonds, each authority is a “governing body”
29 as that term is used in said article only;

30 (10) To establish, charge, and collect reasonable fees and charges for services or for the
31 use of any part of its property or facilities, or for both services and such use;

32 (11) To expend its funds in the execution of the powers and authority herein given;

33 (12) To apply for, receive, and use loans, grants, donations, technical assistance, and
34 contributions from any regional or area commissions that may be established;

35 (13) To prescribe by bylaw the manner of financial participation by members;

36 (14) To construct, acquire, establish, improve, extend, enlarge, reconstruct, equip,
37 maintain, and repair buildings, structures, and facilities, including roadway access, suitable for
38 use as manufacturing plants, industrial plants, and facilities; research parks and facilities;
39 business parks and facilities; retail shopping areas or centers; parks; exhibits; exhibitions; or the
40 conduct of any lawful business, heliport, or aircraft landing area owned or operated by such
41 authority, and to lease or let such buildings, structures, and facilities or any one or more of them
42 to such tenant or tenants for such term or terms, at such compensation or rental and subject to
43 such provisions, limitations, and conditions as the authority may require or approve; and

44 (15) To enter into a management agreement or agreements with any county, city, or town
45 in the state for the management by the authority of an existing airport upon such terms and
46 conditions as may be mutually agreeable.

47 (16) An authority may only exercise the powers delegated to it in this section in the county
48 in which the airport is located or any county contiguous to the county in which the airport is located:
49 *Provided*, That nothing in this subsection shall prohibit an authority from entering into a
50 management agreement for an existing airport with a county that is not contiguous to the county
51 in which the existing airport is located or a city or town located in a county that is not contiguous
52 to the county in which the airport is located.

§8-29B-8a. Abandoned or derelict aircraft.

1 (a) If an abandoned or derelict aircraft is discovered on an airport, the airport authority
2 shall:

- 3 (1) Make a record of the date the aircraft was discovered on the airport; and
4 (2) Inquire as to the name and address of any person having an equitable or legal interest
5 in the aircraft, including the owner and any lien holders, by:

6 (A) Contacting the federal aviation administration, aircraft registration branch, and making
7 a diligent search of the appropriate records; or

8 (B) Contacting an aircraft title search company.

9 (b) Within 10 business days of receiving the information requested pursuant to subsection
10 (a) of this section, the airport authority shall notify the owner and all other interested parties by
11 certified mail, return receipt requested:

12 (1) Of the location of the abandoned or derelict aircraft on the airport;

13 (2) That fees and charges for the use of the airport by the aircraft have accrued and the
14 amount of those fees and charges;

15 (3) That the aircraft is subject to a lien pursuant to this section for any unpaid and accrued
16 fees and charges for the use of the airport and for the transportation, storage, and removal of the
17 aircraft;

18 (4) That the lien is subject to enforcement pursuant to this section;

19 (5) That the airport may use, trade, sell, or remove the aircraft as described in §8-29-3 of
20 this code if, within 30 calendar days after the date of receipt of the notice, the owner or other
21 interested party has not removed the aircraft from the airport and paid in full all accrued fees and
22 charges for the use of the airport and for the transportation, storage, and removal of the aircraft;
23 and

24 (6) That the airport authority may remove the aircraft in less than 30 calendar days if the
25 aircraft poses a danger to the health or safety of users of the airport, as determined by the airport
26 authority.

27 (c) If, after the inquiry required by subdivision (2), subsection (a) of this section, the owner
28 of the aircraft is unknown or cannot be found, the airport authority shall place a notice upon the
29 aircraft in a conspicuous position containing the information required by subdivisions (2) through
30 (6) of subsection (b) of this section: *Provided*, That said notice shall be not less than eight inches
31 by 10 inches and shall be laminated or otherwise sufficiently weatherproof to withstand normal
32 exposure to rain, snow, and other conditions.

33 (d) If, after 30 calendar days of the owner or other interested party receiving the inquiry
34 required by subsection (b) of this section or after 30 calendar days of posting the notice on the
35 aircraft required by subsection (c) of this section, whichever occurs sooner, the owner or other
36 interested party has not removed the aircraft from the airport and paid in full all accrued fees and
37 charges for the use of the airport and for the transportation, storage, and removal of the aircraft,
38 or shown reasonable cause for the failure to do so, the airport authority may:

39 (1) Retain the aircraft for use by the airport, the state, or the unit of local government
40 owning or operating the airport;

41 (2) Trade the aircraft to another unit of local government or a state agency;

42 (3) Sell the property; or

43 (4) Dispose of the property through an appropriate refuse removal company or a company
44 that provides salvage services for aircraft.

45 (e) If the airport authority elects to sell the aircraft in accordance with subsection (d) of this
46 section, the aircraft shall be sold at public auction after giving notice of the time and place of sale,
47 at least 10 calendar days prior to the date of sale, in a newspaper of general circulation within the
48 county where the airport is located and after providing written notice of the intended sale to all
49 parties known to have an interest in the aircraft.

50 (f) If the airport authority elects to dispose of the aircraft in accordance with subdivision
51 (4), subsection (d) of this section, the airport authority may negotiate with the company for a price
52 to be received from the company in payment for the aircraft, or, if circumstances so warrant, a
53 price to be paid to the company by the airport authority for the costs of disposing of the aircraft.
54 All information and records pertaining to the establishment of the price and the justification for the
55 amount of the price shall be prepared and maintained by the airport authority.

56 (g) If the sale price or the negotiated price is less than the airport authority's then current
57 fees and charges against the aircraft, the owner of the aircraft shall remain liable to the airport
58 authority for the fees and charges that are not offset by the sale price or negotiated price.

59 (h) All costs incurred by the airport authority in the removal, storage, and sale of any
60 aircraft shall be recoverable against the owner of the aircraft.

61 (i) The airport authority shall have a lien on an abandoned or derelict aircraft for all unpaid
62 fees and charges for the use of the airport by the aircraft and for all unpaid costs incurred by the
63 airport authority for the transportation, storage, and removal of the aircraft. As a prerequisite to
64 perfecting a lien under this section, the airport authority shall serve a notice in accordance with
65 §8-29-2 of this code on the last registered owner and all persons having an equitable or legal
66 interest in the aircraft.

67 (j)(1) For the purpose of perfecting its lien under this section, the airport authority shall
68 record a claim of lien that states:

69 (A) The name and address of the airport;

70 (B) The name of the last registered owner of the aircraft and all persons having a legal or
71 equitable interest in the aircraft;

72 (C) The fees and charges incurred by the aircraft for the use of the airport and the costs
73 for the transportation, storage, and removal of the aircraft; and

74 (D) A description of the aircraft sufficient for identification.

75 (2) The claim of lien shall be signed and sworn to or affirmed by the airport authority's
76 director or the director's designee.

77 (3) The claim of lien shall be served on the last registered owner of the aircraft and all
78 persons having an equitable or legal interest in the aircraft. The claim of lien shall be so served
79 before recordation.

80 (4) The claim of lien shall be recorded with the register of the county where the airport is
81 located. The recording of the claim of lien shall be constructive notice to all persons of the contents
82 and effect of such claim. The lien shall attach at the at the time of recordation and shall take
83 priority as of that time.

84 (k)(1) If the aircraft is sold pursuant to this section, the airport authority shall satisfy the
85 airport authority's lien, plus the reasonable expenses of notice, advertisement, and sale, from the
86 proceeds of the sale.

87 (2) The balance of the proceeds of the sale, if any, shall be held by the airport authority,
88 and delivered on demand to the owner of the aircraft.

89 (3) If no person claims the balance within 12 months of the date of sale, the airport
90 authority shall retain the funds and use the funds for airport operations.

91 (l) Any person acquiring a legal interest in an aircraft pursuant to this section shall be the
92 lawful owner of the aircraft and all other legal or equitable interests in that aircraft shall be
93 divested: *Provided*, That the holder of any legal or equitable interest was notified of the intended
94 disposal of the aircraft as required by this section. The airport authority may issue documents of
95 disposition to the purchaser or recipient of an aircraft disposed of pursuant to this section.

PART III. CONTROL OF VEHICULAR AND
PEDESTRIAN TRAFFIC NEAR AIRPORTS.

§8-29-9. Rules and regulations to control vehicular and pedestrian traffic within quarter mile of airport; violation of rule and regulation a misdemeanor; penalty.

1 (a) The airport authority or the county court of the county in which any such airport or the
2 major portion thereof is located is hereby empowered and authorized, upon request of the
3 authority, may adopt and promulgate rules and regulations to:

4 (1) Control the movement and disposition of vehicular and pedestrian traffic within 1/4 mile
5 of any building or installation of any such airport;

6 (2) Regulate and control vehicular parking within such areas by the installation of parking
7 meters or by other methods; and

8 (3) Impose reasonable charges for the use of the parking space so metered or otherwise
9 allocated, so as to provide maximum opportunity for the public use thereof.

10 (b) Violation of any such rule and regulation shall constitute a misdemeanor and, the
11 offender, upon conviction in the manner provided by law, may be fined not less than \$10 nor
12 more than \$30 for each such violation.

13 (c) Magistrates shall have concurrent jurisdiction with the circuit courts and with statutory
14 courts of record having criminal jurisdiction for the trial of offenses under this section.

§8-29-12. Authorities to have right of eminent domain.

1 Whenever it shall be deemed necessary by an authority, in connection with the exercise
2 of its powers herein conferred, to take or acquire any lands, structures or buildings or other rights,
3 either in fee or as easements, for the purposes herein set forth, the authority may purchase the
4 same directly or through its agents from the owner or owners thereof, or failing to agree with the
5 owner or owners thereof, the authority may exercise the power of eminent domain in the manner

6 provided for condemnation proceedings in chapter 54 of this code, and such purposes are hereby
7 declared to be public uses for which private property may be taken or damaged.

§8-29-17. Participation.

1 (a) The municipalities and counties or any one or more of them participating therein, jointly
2 or severally, may appoint members of the said authorities and to contribute to the cost of
3 acquiring, establishing, constructing, equipping, improving, and maintaining and operating the
4 said airports and appurtenant facilities.

5 (b) Any of the municipalities or counties as provided in section one of this article may
6 convey or transfer to the authorities property of any kind heretofore acquired by the municipalities
7 or counties for airport purposes.

§8-29-20. Liberal construction of article.

1 The purposes of this article are to provide for the acquisition, establishment, construction,
2 equipping, improvement, financing, maintenance, and operation of airports in a prudent and
3 economical manner, and this article shall be liberally construed as giving to any authority created
4 and established hereunder full and complete power reasonably required to give effect to the
5 purposes hereof. The provisions of this article are in addition to and not in derogation of any power
6 granted to or vested in municipalities and county courts under any Constitutional, statutory, or
7 charter provisions which may now or hereafter be in effect.

ARTICLE 29B. AIRPORT SECURITY.

§8-29B-2. Definitions.

1 As used in this article:

2 (1) "Aircraft" has the meaning provided in §29-2A-1 of this code.

3 (2) "Airport" means any area of land or water which is used, or intended for use, for the
4 landing and takeoff of aircraft, as defined above, any appurtenant areas which are used, or
5 intended for use, for airport buildings or other airport facilities or rights-of-way, together with all
6 airport buildings and facilities located thereon as well as any heliport, helistop, vertiport, gliderport,

7 seaplane base, ultralight flightpark, manned balloon launching facility, or other aircraft landing or
8 takeoff area operated by an airport operator as that term is defined in §8-29B-2(3) of this code.

9 (3) "Airport operator" means a governing body, regional airport authority, or county airport
10 authority, under §8-28-1 *et seq.*, §8-29-1 *et seq.*, or §8-29A-1 *et seq.* of this code, or a board,
11 commission, authority, or committee operating under any local act of the Legislature, charged
12 with the operation and management of an airport.

13 (4) "Airport police officer" means any individual assigned, appointed, or designated by an
14 airport operator, to serve as a police officer at an airport.

§8-29B-3. Rules and regulations; penalties.

1 Each airport operator shall have plenary power and authority to manage and control the
2 airport under its jurisdiction, to promulgate rules and regulations concerning the management and
3 control of such airport, and to enforce any such rules and regulations so promulgated. Any rules
4 and regulations promulgated shall be printed and posted in a conspicuous public place on the
5 airport premises. The violation of any such rule or regulation shall constitute a misdemeanor and,
6 any person convicted of any such violation shall be punished by a fine of not less than \$50 nor
7 more than \$500 or confined in jail for a period not exceeding 30 days, or by both such fine and
8 confined. Justices of the peace of the county shall have concurrent jurisdiction with the circuit
9 court and other courts of record having criminal jurisdiction of any misdemeanor offenses arising
10 under this article. Violation of any such rule or regulation which also constitutes the violation of
11 any federal or state law or municipal ordinance may be prosecuted and punished as a violation
12 of such federal or state law or municipal ordinance rather than under the provisions of this article.
13 It shall be the duty of every airport operator in this state to promulgate all rules and regulations
14 deemed necessary for airport security.

§8-29B-5. Jurisdiction of airport police officers; insurance coverage; bonds.

1 (a) The following areas shall be under the jurisdiction of airport police officers:

2 (1) Any area under the jurisdiction and control of the airport operator, or in connection with
3 the airport;

4 (2) Any property leased, operated, managed, utilized, or controlled by a regional airport
5 authority; or

6 (3) Any area upon which a regional airport authority facilitates training activities pursuant
7 to a written agreement.

8 (b) The jurisdiction of airport police officers shall include any area entered into in pursuit
9 of one or more individuals from one of the areas described in subsection (a) of this section.

10 (c) When exercising the jurisdiction authorized by this section, airport police officers shall
11 have:

12 (1) All of the power and authority which a regularly appointed deputy sheriff of a county in
13 this state has in enforcing the criminal laws of this state;

14 (2) Full power and authority to enforce any and all federal laws and rules and regulations
15 relating to airports, air passengers, baggage inspection, the screening of air passengers, and
16 other airport security measures;

17 (3) Full power and authority to enforce any and all rules and regulations promulgated by
18 the airport operator; and

19 (4) The power to search persons, packages, containers, and baggage and the power to
20 arrest persons: *Provided*, That the foregoing provisions of this section shall under no
21 circumstances whatever be construed as in any way limiting the power and authority of a
22 municipal police officer or deputy sheriff who has been assigned to serve as an airport police
23 officer which he or she has by virtue of his or her being a municipal police officer or deputy sheriff,
24 and under no circumstances whatever shall the assignment or appointment or designation of one
25 or more airport police officers at an airport be deemed in any way to supersede or limit the power
26 and authority of other peace officers to preserve law and order at such airport.

27 (d) Consistent with the provisions of §61-7-5 of this code, any municipal police officer or
28 deputy sheriff assigned as an airport police officer pursuant to §8-29B-4(b) of this code, and
29 (notwithstanding any provision of this code to the contrary) any person appointed or designated
30 as an airport police officer pursuant to §8-29B-4(c) of this code, shall not be required to obtain a
31 state license to carry a deadly weapon, as provided for in §61-7-2 of this code. Any municipal
32 police officer or deputy sheriff assigned as an airport police officer pursuant to the provisions of
33 §8-29B-4(b) of this code shall not be required to furnish any bond under §61-7-5 of this code,
34 other than the bond furnished thereunder as such municipal police officer or deputy sheriff.

35 (e) When one or more policies of public liability insurance are obtained providing insurance
36 coverage for legal liability of an airport police officer for bodily injury, personal injury, or damage
37 (including, but not limited to, false arrest and false imprisonment) and property damage, and
38 affording said airport police officer insurance coverage against any and all legal liability arising
39 from, growing out of, or by reason of, or in any way connected with, any acts or omissions of said
40 airport police officer in the performance of his or her official duties, and so long as the coverage
41 aforesaid remains in full force and effect as to such airport police officer, then the bond specified
42 in §61-7-5 of this code shall not be required as to such airport police officer: *Provided*, That such
43 bond shall otherwise be required and must be furnished.

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

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2022.

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Governor