

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4238**

BY DELEGATES FLEISCHAUER, WILLIAMS, PYLES,  
STATLER, FRICH, HAMRICK, ROBINSON, BREWER,  
STORCH, HOWELL AND MILEY

[Introduced January 22, 2018; Referred  
to the Committee on Political Subdivisions then  
Government Organization.]

1 A BILL to amend and reenact §8A-3-3 of the Code of West Virginia, 1931, as amended, relating  
2 to authorizing counties and municipalities to establish a joint airport hazard comprehensive  
3 plan for the purpose of satisfying requirements of federal aviation law, protecting the public  
4 safety or preventing hazardous conditions; describing requirements for written  
5 agreements; requiring submission of a plan and public hearing; providing for modifications  
6 to written agreements; and providing just compensation for diminution of property value.

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

### **ARTICLE 3. COMPREHENSIVE PLAN.**

#### **§8A-3-3. Authority for planning commission.**

1 (a) A planning commission shall prepare a comprehensive plan for the development of  
2 land within its jurisdiction. A planning commission shall then recommend the comprehensive plan  
3 to the appropriate governing body for adoption.

4 (b) A county, multicounty, regional or joint comprehensive plan may include the planning  
5 of towns, villages or municipalities to the extent to which, in the planning commission's judgment,  
6 they are related to the planning of the unincorporated territory of the county as a whole: *Provided,*  
7 That the comprehensive plan shall not be considered a comprehensive plan for any town, village  
8 or municipality without the consent of the planning commission and/or the governing body of the  
9 town, village or municipality.

10 (c) A comprehensive plan should be coordinated with the plans of the Department of  
11 Transportation, insofar as it relates to highways, thoroughfares, trails, and pedestrian ways under  
12 the jurisdiction of that planning commission.

13 (d) A county planning commission may prepare a comprehensive plan for either the entire  
14 county or a part of the county.

15 (e) A multicounty, regional or joint planning commission may prepare a comprehensive  
16 plan for land within its jurisdiction.

17 (f) Counties and municipalities may by written agreement establish a joint airport hazard

18 comprehensive plan for the purpose of satisfying requirements of federal aviation law, protecting  
19 the public safety or preventing hazardous conditions. The joint written agreement shall set forth  
20 the boundaries of the airport overlay district and any requirements that would apply within the  
21 district, without the need for the adoption of a full comprehensive plan within a municipality or  
22 county. The joint agreement becomes effective once each entity takes the appropriate steps,  
23 including submission to a planning commission and public hearing, for the establishment or  
24 modification of a full or comprehensive plan within its jurisdiction. Any modifications to the written  
25 agreement made by one entity, must be adopted by the other entity or entities for the agreement  
26 to become valid: *Provided*, That where the provisions of any such agreement result in a  
27 diminution in property value to a property owner, the governing authority responsible shall provide  
28 just compensation.

NOTE: The purpose of this bill is to allow counties and municipalities to establish a joint airport hazard comprehensive plan for the purpose of satisfying requirements of federal aviation law, protecting the public safety or preventing hazardous conditions.

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