

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Originating**

## **Senate Bill 874**

By Senators Jeffries, Martin, Hamilton, Hunt, Oliverio,

Roberts, Swope, Chapman, and Plymale

[Originating in the Committee on Economic

Development; reported February 26, 2024]

1 A BILL to amend and reenact §17-16F-1, §17-16F-3, §17-16F-4, and §17-16F-5 of the Code of  
2 West Virginia, 1931, as amended; and to amend said code by adding thereto three new  
3 sections, designated §17-16F-10a, §17-16F-10b, and §17-16F-10c, all relating to the West  
4 Virginia Division of Multimodal Transportation; providing for additional legislative findings;  
5 modifying definitions; authorizing division to create local port authority districts; authorizing  
6 division to propose legislative rules for application process for creation of local port  
7 authority districts; providing that political subdivisions and certain joint ventures may create  
8 local port authority districts in accordance with a certain procedure; establishing an  
9 application and approval process for creation of local port authority districts; directing  
10 division to make certain considerations relating to creation of local port authority districts;  
11 providing for creation of board of directors for local port authority districts and membership  
12 composition; authorizing board to exercise certain powers; and directing board to prepare  
13 a certain annual plan.

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

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

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

1 (a) The Legislature finds and declares that there is a need to streamline the execution and  
2 implementation of the state's multimodal transportation goals and reduce related costs by  
3 consolidating existing multimodal authorities to a single division, known as the West Virginia  
4 Division of Multimodal Transportation Facilities, under the Secretary of Transportation pursuant to  
5 the provisions of chapter 5F of this code. The Department of Transportation, through the West  
6 Virginia Division of Multimodal Transportation Facilities, is designated as the agency of this state  
7 responsible for administering all federal and state programs related to public ports, railroads,  
8 aeronautics, airports, and air navigation facilities.

9            (b) The Legislature further finds and declares that the establishment of local port authority  
10 districts will enhance the efficiency and cost of the movement of goods and services to and from  
11 markets in this state and will encourage the construction and completion of local infrastructure  
12 projects for all types of transportation systems.

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

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

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

35 the West Virginia Division of Multimodal Transportation Facilities in accordance with the provisions  
36 of this article.

**§17-16F-3.**

**Definitions.**

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

2 “Aeronautics” means the art and science of flight, including, but not limited to,  
3 transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft  
4 power plants, and accessories, including the repair, packing, and maintenance of parachutes; and  
5 the design, establishment, construction, extension, operation, improvement, repair, or  
6 maintenance of airports or other air navigation facilities.

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

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

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

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

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

23 “Commissioner” means the chief operating officer and administrative head of the

24 Multimodal Division, when such person is appointed by the Secretary of Transportation.

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

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

40 “Division” means the West Virginia Division of Multimodal Transportation Facilities.

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

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

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

49 “Light rail” means a transit mode that typically is an electric railway with a light volume

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

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

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

57 ~~“Municipal” means pertaining to a municipality.~~

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

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

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

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

69 “Political subdivision” means any county commission, municipality, city, town, village, or  
70 county board of education; any separate corporation or instrumentality established by one or more  
71 counties or municipalities, as permitted by law; any instrumentality supported in most part by  
72 municipalities; or any public body charged by law with the performance of a government function  
73 and whose jurisdiction is coextensive with one or more counties, cities, or towns.

74 “Port” or “public port” means ports, airports, wayports, terminals, buildings, roadways,  
75 rights-of-way, rails, rail lines, facilities for rail, water, highway or air transportation, and such

76 structures, equipment, facilities, or improvements as are necessary.

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

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

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

86 “Rail service” means both freight and passenger service.

87 “Railroad” means a common carrier by railroad as defined in Section 10102 of the  
88 Interstate Transportation Act (49 U.S.C. § 10102).

89 “Railroad project” means the initiation, acquisition, construction, maintenance, repair,  
90 equipping, or operation of rail properties or rail service, or the provisions of loans or grants to or  
91 with government agencies, or to persons for such purposes, by the division.

92 “Secretary” means the Secretary of Transportation.

93 “Wayport” means an airport used primarily as a location at which passengers and cargo  
94 may be transferred between connecting flights of air carriers engaged in air commerce, but also  
95 allows passengers to initiate and terminate flights and shipments of cargo to originate and  
96 terminate at the airport or similar type facility.

97 “West Virginia Commuter Rail Access Fund” means the special West Virginia Commuter  
98 Rail Access Fund created by §17-16F-27 of this code.

99 “West Virginia Railroad Maintenance Fund” means the West Virginia Railroad  
100 Maintenance Fund created by §17-16F-17 of this code.

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

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

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

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

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

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

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

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

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

23          (8) To acquire, purchase, lease, construct, own, hold, operate, maintain, equip, use, and  
24 control, by eminent domain or other means, any land, property, rights, franchises, easements,  
25 ports, and such terminals, buildings, roadways, rights-of-way, rails and such structures,  
26 equipment, facilities, any and every kind or character of motive powers and conveyances or

27 appliances necessary or proper to carry goods, wares, and merchandise over, along, upon, or  
28 through the railway, waterway or airway, or other conveyance of such transportation system,  
29 excluding pipelines or improvements, as are necessary or incident to carry out the provisions of  
30 this article, upon such terms and at such price as may be considered by it to be reasonable and to  
31 take title in the name of the state;

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

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

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

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

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

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



8 port authority districts. The division may promulgate any necessary emergency rules to implement  
9 the provisions of this article pursuant to the provisions of §29A-3-15 of this code.

**§17-16F-10a. Authorization to create a local port authority district.**

1 A political subdivision of this state, a joint venture of two or more political subdivisions, a  
2 joint venture of political subdivisions and a private entity or entities, or a joint venture of political  
3 subdivisions and any bordering state may create a local port authority district in accordance with  
4 the procedure set forth in §17-16F-10b of this of this code.

**§17-16F-10b. Application to division for approval to create local port authority district.**

1 The division shall create an application and approval process for creation of a local port  
2 authority district. In deciding on a local port authority district designation, the division shall consider  
3 areas which have entered into a joint venture with private industry and areas which have made or  
4 will make the greatest effort, both financially and otherwise, to encourage the establishment of  
5 facilities to enhance the efficiency and cost of the movement of goods and services to and from  
6 markets in West Virginia, or will make the greatest effort to encourage the construction and  
7 completion of infrastructure projects, including all types of transportation systems.

**§17-16F-10c. Creation of board of directors for local port authority district; powers and duties.**

1 (a) A local port authority district may appoint a board of directors to administer the district.  
2 Board members shall be appointed from political subdivisions and the private sector and, at a  
3 minimum, represent the following areas:

4 (1) One member from each political subdivision and each private entity comprising the  
5 local port authority district;

6 (2) One member from the congressional district in which the local port authority district is  
7 located who shall represent the public interest generally;

8 (3) At least two members that have recognized ability and practical experience in  
9 transportation;

10           (4) At least two members with recognized ability and practical experience in economic  
11 development, freight, or logistics;

12           (5) At least one member that has recognized ability and practical experience in  
13 international trade;

14           (6) At least one member with recognized ability and practical experience in business  
15 management, economics, or accounting; and

16           (7) Two members representing the public at large.

17           (b) The board may exercise all powers necessary and proper to implement the purpose of  
18 the local port authority district so long as those powers do not exceed or supersede the powers of  
19 the division.

20           (c) The board shall prepare and submit a plan by October 31 of each year with the division  
21 for future development, construction, and improvement of its services and facilities.