WEST VIRGINIA CODE CHAPTER 15 ARTICLE 6

WV Legislature

§15-6-1. Legislative purpose and authority.

In order to provide modern and efficient facilities for the training, operations, supply and administration of the National Guard, to provide for the defense of the state in time of war and to repel invasion and suppress insurrection, to provide facilities for use in time of fires, floods, riots and other disasters, to provide public meeting places, recreational and other facilities and to promote the general welfare, the state armory board (hereinafter created) is hereby authorized and empowered to construct, acquire, improve, maintain, repair and operate armories and armory projects (as hereinafter defined) and to issue armory board revenue bonds of the State of West Virginia, payable solely from revenues, to pay the cost of such projects.

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§15-6-2. Armory board revenue bonds not to constitute state debt, etc.

Armory board revenue bonds issued under the provisions of this article shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds herein provided therefor from revenues. All such bonds shall contain on the face thereof a statement to the effect that neither the state nor any political subdivision thereof shall be obligated to pay the same or the interest thereon except from revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

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§15-6-3. Definitions.

The following terms, wherever used or referred to in this article shall have the following meanings, unless a different meaning clearly appears from the context:

(a) The word "board" shall mean the state armory board created by section four of this article, or if such board be abolished, any board or officer succeeding to the functions thereof, or upon whom the powers given by this article to the board shall be given by law.

(b) The word "bonds" shall mean armory board revenue bonds issued under the provisions of section seven of this article.

(c) The term "armory" shall mean and embrace buildings, areas and centers and the equipment and other facilities appurtenant thereto, including armories, arsenals, ranges, campgrounds, service centers, training areas, concentration areas, and warehouses, used for the training, administration, operations and maintenance of the National Guard or any combination or combinations thereof, and any other equipment and facilities incorporated therein for the accomplishment of the purposes set forth in section one of this article.

(d) The words "project" or "armory project" shall be deemed to mean collectively the acquisition and construction of buildings, structures and other works, together with all roads, incidental approaches and other facilities appurtenant thereto and all property, rights, easements and other interests, which the board shall determine to construct, acquire or improve under the provisions of this article in order to provide new or improved military facilities, and the necessary maintenance and equipment therefor.

(e) The term "cost of project" shall embrace the cost of construction, the cost of all land, rights of way, property rights, easements and interest acquired by the board for such construction, the cost of all property, material, labor, machinery and equipment deemed essential thereto, cost of improvements, financing charges, interest during construction and for a period not to exceed one year after completion of construction, cost of preliminary estimates, plans, surveys and other expenses necessary or incident to determining the feasibility or practicability of construction of the project, administrative expenses and all other expenses, including legal fees, trustees', engineers' and architects' fees which may be necessary or incident to the financing, construction and placing of the project in operation.

(f) The term "rent" or "rental" shall include all moneys received for the use of any part of the project, whether from the State of West Virginia, or any officer, department or public corporation thereof, or from any private corporation or person: Provided, That nothing in this article shall be taken to authorize the payment by or on behalf of the state of any rent in excess of the fair rental value of the property used by or for such state officer, or department, or public corporation in the exercise of his or its statutory duties.

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§15-6-4. State armory board -- Generally.

The state armory board is continued. The board may sue and be sued, and plead and be impleaded. It is a body corporate and is an agency of the state. The exercise by the board of the powers conferred by this article in the acquisition, financing, construction, operation and maintenance of armories and armory projects is an essential governmental function. The board consists of the Governor or his or her designee, the Secretary of State and the Auditor. The Governor or his or her designee, is chairman of the board and the Secretary of State is the secretary of the board. Two members of the board is a quorum and the vote of two members is necessary for any action taken by the board.

The members and officers of the board are not entitled to compensation for their services, but each member shall be reimbursed for expenses necessarily incurred in the performance of his or her duties.

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§15-6-5. State armory board -- Duties.

The board shall be responsible for the acquisition, financing, construction, and disposition of armories. It shall properly maintain, repair, operate, manage and control all armories, fix the rates of rental, and establish bylaws and rules and regulations for their use and operation, and may make and enter into all contracts, agreements necessary and incidental to the performance of its duties and execution of its powers under this article. It shall audit and approve all bills, claims and accounts in connection with the construction, acquisition, maintenance, repair and operation of all armories before such bills, claims and accounts shall be paid, and it shall perform such other duties as this article may require or as may be otherwise required by law.

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§15-6-6. State armory board -- Powers.

The board is hereby authorized and empowered:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) To adopt an official seal and alter the same at pleasure.

(c) To sue and be sued in its own name, plead and be impleaded: Provided, however, That any and all actions at law or in equity against the board shall be brought only in the county in which the principal office of the board is located.

(d) To construct, maintain, repair and operate and dispose of armories and armory projects at such locations within the state as may be determined by the board.

(e) To issue armory board revenue bonds of the State of West Virginia payable solely from revenues, for the purpose of paying all or any part of the cost of any one or more armory projects.

(f) To contract and to acquire in the name of the state by purchase or otherwise on such terms and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner hereinafter provided, such public or private lands, including public parks or reservations, or parts thereof or rights therein, rights of way, property, rights, easements and interests, as it may deem necessary for carrying out the provisions of this article; and to dispose of the same in accordance with the law: Provided, however, That no compensation shall be paid for public lands owned by the state or any subdivision thereof so taken and that all public property damaged in carrying out the powers granted by this article, shall be restored or repaired and placed in its original condition as nearly as practicable.

(g) To acquire, hold and dispose of real and personal property in the exercise of its powers and for its corporate purposes.

(h) To appoint officers and agents and to fix their compensation.

(i) To make and execute all contracts, agreements and other instruments necessary or incident to the performance of its duties and for its corporate purposes.

(j) To receive and accept from any federal agency grants for or in aid of armory projects, and to receive and accept aid or contributions of either money, property, labor or other things of value, from any source including counties, municipalities, boards of education and other political subdivisions or agencies of the state.

(k) To charge rent for the use of any armory or armory project, or any part thereof, subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided.

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(l) To enter upon any lands or premises for the purposes of making surveys, soundings and examinations.

(m) To do all things necessary or convenient to carry out the powers granted in this article, including the management and use of armories and armory projects not inconsistent with their use by the state for armory purposes as defined herein.

WV Legislature

§15-6-6a. Transfer of powers and duties to the Adjutant General.

(a) Notwithstanding the provisions of sections five and six of this article, all powers and duties of the state armory board, with respect to any armory or armory project upon which there is no bonded indebtedness, and the income of which is not dedicated to retire any bonded indebtedness, to maintain, repair, operate, manage and control the armories; to fix, revise charge and collect rentals; to establish bylaws and rules for their use and operation; to enter into contracts and other agreements; and to manage and control the financial operations of armory facilities, are hereby transferred to the Adjutant General.

(b) The Adjutant General shall transfer any moneys appropriated to the Adjutant General necessary for operation and maintenance of those National Guard armories secured by bonded indebtedness to the state armory board, and these moneys may not be commingled with other funds. With respect to all other appropriated moneys, whether from state or federal funds, the Adjutant General has signature authority with respect to the management of state armory facilities, is authorized to issue requisitions upon the Auditor for payment of money out of the State Treasury and has all the powers of the principle officer of a state spending unit.

(c) The special revenue account of the state armory board provided for in section ten of this article and designated the "general armory fund," together with all unexpended balances remaining in the account on July 1, 1999, shall be transferred on that date to the Adjutant General.

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§15-6-7. State armory board -- Authority to issue revenue bonds.

The board is hereby empowered to raise the cost of the project, as defined hereinabove, by the issuance of armory board revenue bonds of the State of West Virginia, the principal of and interest on which bonds shall be payable solely from the special fund provided by section ten of this article for such payment. Such bonds shall be authorized by a resolution of the board which shall recite an estimate by the board of such cost, and shall provide for the issuance of bonds in an amount sufficient, when sold as hereinafter provided, to produce such cost, less the amount of any grant or grants, gift or gifts, received or in the opinion of the board expected to be received from the United States of America, or from any other source. Such bonds shall bear interest at not more than five per cent per annum, payable semiannually, and shall mature in not more than thirty years from their date or dates, and may be made redeemable at the option of the state, to be exercised by the board, at such price and under such terms and conditions as the board may fix prior to the issuance of such bonds. The board shall fix the denominations of said bonds, the principal and interest of which shall be payable at the Office of the Treasurer of the State of West Virginia, at the capitol of said state, or, at the option of the holder, at some bank or trust company in the city of New York, to be named in the bond, in such medium, as may be determined by the board. Proceeds of such bonds shall be used solely for the payment of the cost of the project and shall be deposited and checked out as provided by section nine of this article, and under such further restrictions, if any, as the board may provide. The board shall determine the form of such bonds, including coupons to be attached thereto, which bonds shall bear the facsimile signature of the Governor as chairman of the board and shall be signed by the Secretary of State as secretary of the board, under the great seal of the state, attested by the Secretary of State, and the coupons attached thereto shall bear the facsimile signature of the Governor as chairman of the board. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The board may provide for the registration of such bonds in the name of the owner as to the principal loan, and as to both principal and interest under such terms and conditions as the board may determine, and shall sell such bonds in such manner as it may be determined to be for the best interests of the state, taking into consideration the financial responsibility of the purchaser, and the terms and conditions of the purchaser and especially the availability of the proceeds of the bonds when required for payment of the costs of the project, such sales to be made at a price not lower than a price which, computed upon standard tables of bond values, will show a net return of five and one half percent per annum to the purchaser upon the amount paid therefor. If the proceeds of such bonds by error of calculation or otherwise, shall be less than the cost of the project, additional bonds may in like manner be issued to provide the amount of the deficiency, and unless otherwise provided for in the trust agreement hereinafter mentioned, shall be deemed to be of the same issue, and shall be entitled to payment from the same fund, without preference or priority as to the bonds before issue. If the proceeds of the bonds issued for the project shall exceed the costs thereof, surplus shall be paid into the fund provided by section ten of this article for payment of the principal and interest of such

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bonds. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price, if any, of which bonds in the same year may be redeemable, and all bonds redeemed or purchased shall not again be issued.

WV Legislature

§15-6-8. State armory board -- Trustee of holders of revenue bonds.

The board may enter into an agreement or agreements with any trust company, or with any bank having the powers of a trust company, either within or outside of the state, as trustee for the holders of bonds issued hereunder, setting forth therein such duties of the state and of the board in respect to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the project, the conservation and application of all moneys, the insurance of moneys on hand or on deposit, and the rights and remedies of the trustee and the holders of the bonds, as may be agreed upon with the original purchasers of such bonds, and including therein provisions restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds and debentures of corporations, protecting and enforcing the rights and remedies of the trustee and the bondholders, and providing for approval by the original purchasers of the bonds of the appointment of consulting architects, and of the security given by those who contract to construct the projects and by the bank or trust company in which the proceeds of the bonds or rental shall be deposited and for approval by the consulting architects of all contracts for construction. Any such trust agreement may pledge or assign the rents or other revenues to be received by the board, but shall not convey or mortgage any armory or armory projects or any part thereof.

WV Legislature

§15-6-9. Application of proceeds of bonds, grants and appropriations.

The proceeds of all bonds issued and sold under the provisions of this article, the proceeds of any grants, gifts or contributions received by the board and any appropriations for the construction or acquisition of armory projects shall be paid to the treasurer of the State of West Virginia who shall not commingle such moneys with other moneys, but shall deposit them in separate bank account or accounts. The moneys in said accounts shall be paid out on check of the treasurer on requisition of the chairman of the board, or such person as the board may authorize to make such requisition. All deposits of such moneys shall if required by the treasurer or the board be secured by obligations to the United States, of the State of West Virginia or of the board, of a market value equal at all times to the deposit and all banking institutions are authorized to give such security for such deposits.

WV Legislature

§15-6-10. Rentals and other revenues from armories.

The board is hereby authorized to fix, revise, charge and collect rent for the use of armories or any part or parts thereof, and to contract with the Adjutant General of the state, with any other officer, department or public corporation or political subdivision thereof and with any person, partnership, association or corporation desiring the use thereof, and to fix the terms, conditions, rents and rates of charges for such use: Provided, however, That the primary purpose of armories shall be their use by the National Guard, and their use by other than the National Guard shall be subject to and shall not interfere with such primary purpose. Such rents shall be so fixed and adjusted in respect of the aggregate of rents from armories in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such armories and (b) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. All rents and other revenues of the board received from the use of armories shall be paid into a special account of the treasurer of the State of West Virginia to be known as the general armory fund and shall be used solely for the purposes of this article. Such moneys shall be checked out and secured in the same manner as provided in section nine of this article.

WV Legislature

§15-6-11. Authority of board to pledge revenues as security.

The board shall have authority to pledge all revenue derived from any project as security for any bonds issued under this article to defray the cost of such project. In any case in which the board may deem it advisable it shall also have the authority to pledge the revenue derived from any existing armories as additional security for the payment of any bonds issued under the provisions of this article to pay the cost of any armory project.

WV Legislature

§15-6-12. Title to armory property, etc., to vest in state.

Title to all property, armories and armory projects, upon delivery and acceptance, shall vest in the state and shall be held in the name of the state. The board may, upon such terms as the board may deem to be in the best interest of the state, transfer title to any armory to the United States, but may provide for the retention by the state of civil and police jurisdiction through such armory and a right to tax persons residing thereon.

All money received by the board from any armory sold, damaged or destroyed, unless pledged as security for the payment of bonds issued under the provisions of this article, shall be paid to the treasurer of the state and credited to the account of the board, and may be expended for the construction, acquisition or improvement of armories under the provisions and limitations of this article.

WV Legislature

§15-6-13. Lease of armory or armory facilities by Adjutant General.

Nothing contained in this article shall be construed as limiting the authority of the Adjutant General to enter into leases for armories on behalf of the National Guard or state guard.

WV Legislature

§15-6-14. Acquisition of property for armory projects; condemnation.

The board is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any land, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction or operation of any armory or armory project upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the board and the owner thereof, and to take title thereto in the name of the state. Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated, or is absent, unknown or unable to convey valid title, the board is hereby authorized and empowered to acquire, by the exercise of the power of condemnation in accordance with and subject to the provisions of any and all existing laws and statutes applicable to the exercise of the power of condemnation of property for public use, any land, property, rights, rights-of-way, franchises, easements or other property deemed necessary or convenient for the construction or the efficient operation of any armory project or necessary in the restoration of public or private property damaged or destroyed. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the board and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the board to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the board shall impose any liability upon the state or the board except such as may be paid from the funds provided under the authority of this article.

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§15-6-15. Preliminary expenses of armory projects.

The Adjutant General is hereby authorized in his discretion to expend out of any funds available for the purpose such moneys as may be necessary for the study of any preliminary armory project or projects and for making necessary estimates, plans and surveys to determine the feasibility of the construction and financing thereof; and all such expenses incurred by the Adjutant General prior to the issuance of bonds under the provisions of this article shall be paid by the Adjutant General and charged to the appropriate armory project, and the Adjutant General shall keep separate records and accounts showing such amounts so charged. Upon the sale of bonds for any armory project the funds so expended by the Adjutant General in connection with such project shall be reimbursed to the Adjutant General from the proceeds of such bonds.

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§15-6-16. County or municipal aid for armory purposes.

Any county or municipality or two or more municipalities jointly may raise and appropriate money in the aid of the acquisition, construction, maintenance, repair and improvement of any armory located therein, and to that end may issue bonds payable not more than thirty years after their issue and bearing interest at a rate not exceeding six percent per annum, and may deposit such money and funds and the proceeds of the sale of such bonds with the State Treasurer in the special account provided by section nine of this article to the credit of the proper armory project, and may make such further provisions for the maintenance and improvement of such armory and its joint use with the National Guard as may be deemed necessary: Provided, That whenever the board deems it expedient and in furtherance of the purposes of this article it may purchase and finish armories already built or partly built. Counties and municipalities constructing and financing armories under the provisions of this article or the provisions of article four-a, chapter eight of this code shall convey such armories to the armory board upon payment of all bonds, and interest thereon, issued for the construction or improvement thereof.

WV Legislature

§15-6-17. Disposition of abandoned and unsuitable armories or armory facilities.

Whenever any armory shall be no longer needed by the National Guard, or other military organization, or in the judgment of the board is unsuitable for military purposes, the board shall have the authority, and it is hereby expressly empowered to sell, transfer and convey such armory to the municipality, county or county board of education or any two or more of the same or combination thereof in which the same is located, for public purposes, upon such terms as the board may deem to be in the best interest of the state: Provided, That if such municipality, county or Board of Education shall not purchase such armory, the board shall then be authorized to sell, transfer and convey the same to any person, firm, or corporation upon such terms as the board may deem to be in the best interest of the state: Provided further, That if the armory cannot be sold in this manner, the board may lease it for other than military purposes as provided in section ten of this article.

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§15-6-18. Exemption of armories, etc., from taxation.

The exercise of the powers granted in this article will be in all respects for the benefit of the people of this state, and, as the construction, acquisition, improvement, operation and maintenance of armories will constitute the performance of essential governmental functions, the board shall not be required to pay any taxes or assessments upon any armory or any property acquired or used by the board under the provisions of this article or upon the income therefrom, and the bonds issued under the provisions of this article, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation within the state.

WV Legislature

§15-6-19. Article not authority to create state debt.

Nothing in this article contained shall be so construed or interpreted as to authorize and permit the incurring of state debts of any kind or nature as contemplated by the provisions of the Constitution of the State of West Virginia in relation to state debt, or any subdivision thereof.

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§15-6-20. Compliance with article and state Constitution only restrictions on construction and management of projects under article.

It shall not be necessary to secure from any officer or board not named in this article any approval or consent, or any certificate or finding, or to hold an election, or to take any proceedings whatever, either for the construction of such project, or the improvement, maintenance, operation, or repair thereof, or for the issuance of bonds hereunder except such as are provided by this article or are required by the Constitution of the state.

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