WEST VIRGINIA CODE CHAPTER 5 ARTICLE 6

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§5-6-1. Name of state office building commission changed; composition; appointment, terms and qualifications of members; chairman and secretary; compensation and expenses; powers and duties generally; frequency of meetings; continuation.

"The state office building commission of West Virginia", hereto created, shall continue in existence, but on and after the February 9, 1966, shall be known and designated as "The state building commission of West Virginia" and shall continue as a body corporate and as an agency of the State of West Virginia. On and after the date aforesaid, the commission shall consist of the Governor, Attorney General, State Treasurer and four additional members to be appointed by the Governor by and with the advice and consent of the Senate. The terms of office for said members to be appointed by the Governor shall be four years, except that the terms of office of the first four members so appointed by the Governor shall be for one, two, three and four years, respectively. No more than three of such members so appointed by the Governor shall be members of the same political party, nor shall any of said members be members or employees of the executive, legislative or judicial branches of government of West Virginia or any political subdivision thereof. The Governor shall be chairman of the commission. The Secretary of State shall be a member of the commission and serve as its secretary, but shall not have the right to vote upon matters before the commission. All members of the commission shall be citizens and residents of this state. The members of the commission shall be paid or reimbursed for their necessary expenses incurred under this article, but shall receive no compensation for their services as members or officers of the commission: Provided, That each member of the commission appointed by the Governor shall, in addition to such reimbursement for necessary expenses, receive an amount not to exceed the same compensation as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or substantial portion thereof that he is engaged in the work of the commission. Such expenses and per diem shall be paid solely from funds provided under the authority of this article, and the commission shall not proceed to exercise or carry out any authority or power herein given it to bind said commission beyond the extent to which money has been provided under the authority of this article. On or before the fifteenth day of each month, the commission shall prepare and transmit to the President and Minority Leader of the Senate and the Speaker and the Minority Leader of the House of Delegates a report covering the activities of the said commission for the preceding calendar month.

Pursuant to the provisions of article ten, chapter four of this code, the state Building Commission shall continue to exist until July 1, 2000.

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§5-6-2. Legislative findings; purpose of revision of article.

(a) The Legislature hereby finds that, with the concurrence of the Legislature, the commission heretofore authorized pursuant to resolution adopted on March 11, 1968, the issuance of "State Building Revenue Bonds, Series 1968," in the aggregate principal amount of $24,200,000; pursuant to resolution adopted October 14, 1968, the issuance of "State Building Revenue Bonds, Public Safety Series," in the aggregate principal amount of $2,500,000; and pursuant to resolution adopted on April 13, 1970, the issuance of "State Building Revenue Bonds, Science and Cultural Center Series," in the aggregate principal amount of $9 million.

(b) The Legislature hereby further finds that the said "State Building Revenue Bonds, Series 1968" were all sold and are now outstanding in the principal amount of $24,200,000; that the said "State Building Revenue Bonds, Public Safety Series" were all sold and are now outstanding in the principal amount of $2,500,000; and that said "State Building Revenue Bonds, Science and Cultural Center Series," in the principal amount of $1,500,000 were sold and are now outstanding.

(c) The Legislature hereby further finds that the proceeds from the issuance and sale of the aforesaid "State Building Revenue Bonds, Series 1968," the aforesaid "State Building Revenue Bonds, Public Safety Series" and the aforesaid "State Building Revenue Bonds, Science and Cultural Center Series" have been expended or obligated in and for construction of or in connection with projects undertaken pursuant to this article, which projects are owned and held in the name of the state or the commission.

(d) The Legislature hereby further finds that the acquisition and construction of the aforesaid projects have been in the best interests of the state by providing additional essential office space and other related structures which are needed for the use of the state, and the officers, departments, agencies and public corporations of the state, and the fulfillment of other public uses and purposes.

(e) The Legislature further finds and declares that the Supreme Court of Appeals of West Virginia has held that the former provisions of this article were unconstitutional to the extent that the same contemplated that the principal of and the interest on bonds issued by the commission would be paid solely from a fund to be created and maintained from general tax revenues of the state.

(f) The Legislature further finds and declares that the amendments made by this act to this article are intended (1) to modify the provisions of this article so as to cause the same to be in full compliance with the provisions of the Constitution of the State of West Virginia, which said court held were violated by the former provisions of this article, and to be in full compliance with said decision of the Supreme Court of Appeals of West Virginia, and (2) to accord statutory recognition to existing rights, legal and equitable, of the holders of bonds heretofore issued by the commission, afford security for the payment of the obligations evidenced thereby and provide a special fund for the payment of the obligations evidenced

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thereby.

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§5-6-3. 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:

(1) "Commission" means the state building commission of West Virginia or, if said commission shall be abolished, any board or officer succeeding to the principal functions thereof, or to whom the powers given to said commission shall be given by law;

(2) "Bonds" means bonds issued by the commission pursuant to this article;

(3) "Project" means collectively the acquisition of land, the construction, equipping, maintaining and furnishing of a building or buildings, together with incidental approaches, structures and facilities, herein authorized to be constructed;

(4) "Cost of project" includes the cost of construction, the cost of equipping and furnishing same, the cost of all land, property, material and labor which are deemed essential thereto, the cost of improvements, financing charges, interest during construction, and all other expenses, including legal fees, trustees', engineers' and architects' fees which are necessarily or properly incidental to the project;

(5) "General tax revenues of the state" means revenues of the state derived from the exercise of the power of taxation and available for appropriation by the Legislature for general public purposes and shall not include revenues of the state, or of any officer, department or agency thereof, derived from taxes levied, collected and dedicated for a special purpose or purposes or derived from sources other than taxes such as profits, fees or charges; and

(6) "Rent" or "rental" includes all moneys received for the use of any part of a project either from the State of West Virginia or any officer, department or public corporation thereof, or from any instrumentality or political subdivision of the state, or directly or indirectly, from the United States of America or any officer, department, agency, instrumentality or public corporation thereof: 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 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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§5-6-4. Powers of commission.

(a) The commission has the power:

(1) To sue and be sued, plead, and be impleaded;

(2) To have a seal and alter the same at pleasure;

(3) To contract to acquire and to acquire, in the name of the commission or of the state, by purchase, lease, lease-purchase or otherwise, real property or rights or easements necessary or convenient for its corporate purposes and to exercise the power of eminent domain to accomplish those purposes;

(4) To acquire, hold and dispose of personal property for its corporate purposes;

(5) To make bylaws for the management and regulation of its affairs;

(6) With the consent of the Attorney General of the State of West Virginia, to use the facilities of his or her office, assistants and employees in all legal matters relating to or pertaining to the commission;

(7) To appoint officers, agents and employees and fix their compensation;

(8) To make contracts, and to execute all instruments necessary or convenient to effectuate the intent of, and to exercise the powers granted to it by this article;

(9) To renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the commission that its interests will be best served;

(10) To construct a building or buildings on real property, which it may acquire, or which may be owned by the State of West Virginia, in the city of Charleston, as convenient as may be to the capitol building, together with incidental approaches, structures and facilities, subject to the consent and approval of the city of Charleston in any case as may be necessary; and, in addition, to acquire or construct a warehouse, including office space in the warehouse in Kanawha County for the West Virginia Alcohol Beverage Control Commissioner, and equip and furnish the office space; and to acquire or construct, through lease, purchase, lease-purchase or bond financing, hospitals or other facilities, buildings, or additions or renovations to buildings as may be necessary for the safety and care of patients, inmates and guests at facilities under the jurisdiction of and supervision of the division of health and at institutions under the jurisdiction of the Division of Corrections or the regional jail and correctional facilities authority; and to formulate and program plans for the orderly and timely capital improvement of all of the hospitals and institutions and the state Capitol buildings; and to construct a building or buildings in Kanawha County to be used as a general headquarters by the division of public safety to accommodate that division’s executive staff, clerical offices, technical services, supply facilities and dormitory accommodations; and to develop, improve and expand state parks and recreational facilities

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to be operated by the Division of Natural Resources; and to establish one or more systems or complexes of buildings and projects under control of the commission; and, subject to prior agreements with holders of bonds previously issued, to change the systems, complexes of buildings and projects from time to time, in order to facilitate the issuance and sale of bonds of different series on a parity with each other or having such priorities between series as the commission may determine; and to acquire by purchase, eminent domain or otherwise all real property or interests in the real property necessary or convenient to accomplish the purposes of this subdivision. The rights and powers set forth in this subdivision shall not be construed as in derogation of any rights and powers now vested in the West Virginia Alcohol Beverage Control Commissioner, the Department of Health Facilities, the Division of Corrections, or the Division of Natural Resources;

(11) To maintain, construct, remove, and operate a project authorized under this article;

(12) To charge rentals for the use of all or any part of a project or buildings at any time financed, constructed, acquired or improved, in whole or in part, with the proceeds of sale of bonds issued pursuant to this article, subject to and in accordance with such agreements with bondholders as may be made as provided in this article: *Provided*, That on and after the effective date of the amendments to this section, to charge rentals for the use of all or any part of a project or buildings at any time financed, constructed, acquired, maintained or improved, in whole or in part, with the proceeds of sale of bonds issued pursuant to this article, subject to and in accordance with such agreements with bondholders as may be made as in this section provided, or with any funds available to the state building commission, including, but not limited to, all buildings and property owned by the State of West Virginia or by the state building commission, but no rentals shall be charged to the Governor, Attorney General, Secretary of State, State Auditor, State Treasurer, the Legislature and the members of the Legislature, the Supreme Court of Appeals, nor for their offices, agencies, official functions and duties;

(13) To issue negotiable bonds and to provide for the rights of the holders of the negotiable bonds;

(14) To accept and expend any gift, grant, or contribution of money to, or for the benefit of, the commission, from the State of West Virginia or any other source for any or all of the purposes specified in this article or for any one or more of such purposes as may be specified in connection with the gift, grant, or contribution;

(15) To enter on any lands and premises for the purpose of making surveys, soundings, and examinations;

(16) To invest in United States government obligations, on a short-term basis, any surplus funds which the commission may have on hand pending the completion of any project or projects;

(17) To issue revenue bonds in accordance with the applicable provisions of this article for

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the purposes set forth in §5-6-11a of this code; and

(18) To do all things necessary or convenient to carry out the powers given in this article.

(19) The power and authority granted to the state building commission pursuant to this section and §5-6-7, §5-6-8, and §5-6-11a of this code to initiate, acquire, construct, finance or develop projects; to issue revenue bonds; or to exercise the power of eminent domain with respect to any project, shall terminate on the effective date of this section: *Provided*, That nothing herein shall be construed to affect the validity of any act of the state building commission prior to the effective date of this section or to impair the rights of bondholders with respect to bonds or other evidence of indebtedness issued prior to the effective date of this section. Following the effective date of this section, the secretary of administration may exercise any power expressly granted pursuant to this article with respect to any project or facility previously constructed or acquired, any existing contractual obligations, and any outstanding bonded indebtedness. Refunding bonds for any outstanding bonded indebtedness are authorized, subject to the provisions of article two-e, chapter thirteen of this code. The West Virginia economic development authority provided for in §31-15-1 *et seq*. of this code is designated to act as the governing body whose authorizations and determinations are required for the purpose of refunding bonds.

(b) Notwithstanding any provision of this code to the contrary, the commission may not cause or permit to be caused the dedication or naming of any state building or public structure for a public official who is holding office at the time of the proposed dedication or naming.

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§5-6-4a. Review of real property contracts and agreements; master plan for office space.

(a) The Secretary of Administration shall provide to the Joint Committee on Government and Finance a copy of a contract or agreement for real property exceeding $1 million and a report setting forth a detailed summary of the terms of the contract or agreement, including the name of the owner of the property and the agent involved in the sale, at least thirty days prior to any sale, exchange, transfer, purchase, lease purchase, lease or rental of real property, any refundings of lease purchases, leases or rental agreements, any construction of new buildings and any other acquisition or lease of buildings, office space or grounds by any state agency, but excepting the transactions of the Higher Education Policy Commission, Council for Community and Technical College Education, state institutions of higher education and the Division of Highways for state road purposes pursuant to article two-a, chapter seventeen of this code: Provided, That a contract or agreement for the lease purchase, lease or rental of real property by any state agency, where the costs of real property acquisition and improvements are to be financed, in whole or in part, with bond proceeds, may contain a preliminary schedule of rents and leases for purposes of review by the committee.

(b) For renewals of contracts or agreements required to be reported by this section, the Secretary of Administration shall provide a report setting forth a detailed summary of the terms of the contract or agreement, including the name of the owner of the property.

(c) Within thirty days after receipt of the contract, agreement or report, the committee shall meet and review the contract, agreement or report.

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§5-6-5. Deposit and disbursement of funds of commission; security for deposits; audits.

Except as provided in sections five-a and eleven-a of this article, all moneys of the commission from whatever source derived shall be paid to the treasurer of the State of West Virginia who shall not commingle the moneys, but shall deposit them to a special revenue fund to be known as the "state building commission fund". The moneys in the account shall be impressed with and subject to the lien or liens on the moneys in favor of the bondholders provided in the proceedings for issuance of bonds pursuant to this article. The moneys in the account shall be paid out on check of the treasurer on requisition of the chairman of the commission, or of such other person as the commission may authorize to make the requisition. All deposits of the moneys shall, if required by the treasurer or the commission, be secured by obligations of the United States, of the State of West Virginia, or of the commission, of a market value equal at all times to the amount of the deposit, or letters of credit of the federal land banks, or federal home loan banks, or other letters of credit approved by the treasurer, and all banking institutions are authorized to give such security for the deposits. The Legislative Auditor and his or her legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing.

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§5-6-5a. Creation of asbestos account; purpose; funding; disbursements.

(a) There is hereby created in the state Treasury a separate special revenue account, which shall be an interest bearing account, to be known as the "asbestos account." The special revenue account shall consist of recoveries from litigation pertaining to asbestos, appropriations made by the Legislature, income from the investment of moneys held in the special revenue account and all other sums available for deposit to the special revenue account from any source, public or private and no expenditures for purposes of this section are authorized from collections except in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions set forth in article two, chapter five-a of this code. No expenses incurred under this section shall be a charge against the General Funds of the state.

(b) Moneys in the special revenue account shall be appropriated to the state building commission and used exclusively, in accordance with appropriations by the Legislature, to pay costs, fees and expenses incurred, or to be incurred for the following purposes: (1) The investigation and pursuit of claims against manufacturers, suppliers and installers of asbestos or asbestos containing materials; (2) all services relating to the litigation involving the state and pertaining to asbestos or asbestos containing materials; (3) the location, treatment and abatement of asbestos or asbestos containing materials by the state; (4) the development of implementation, administration and management manuals pertaining to asbestos or asbestos containing materials and the treatment and/or abatement of asbestos or asbestos containing materials; (5) the design, implementation and management of all state buildings containing asbestos and asbestos containing materials for the proper treatment and/or abatement of asbestos conditions as they arise and as are needed; (6) all other related asbestos activities designed for the location, treatment and abatement of such asbestos or asbestos containing materials as are found in state buildings, including buildings under the control of the university of West Virginia board of trustees or the board of directors of the state college system, and as determined by the secretary of the Department of Administration; and (7) all costs incurred in the administration of the special revenue account.

(c) Any balance remaining in the special revenue account at the end of any state fiscal year shall not revert to the General Revenue Fund but shall remain in the special revenue account and shall be used solely in a manner consistent with this section: Provided, That over the three succeeding fiscal years after the effective date of this section, any appropriation made to the special revenue account from general revenue shall be repaid to the General Revenue Fund from moneys available in the special revenue account.

(d) Disbursements from the special revenue account shall be authorized by the secretary of the Department of Administration or his designee. Moneys in the special revenue account shall not be available for the payment of any personal injury claims, workers' compensation claims or other types of disability claims. Payment from the special revenue account may be made for any expense incurred by the Attorney General prior to the effective date of this section, including any expense incurred in prior fiscal years, if the expense is directly related

to the litigation of matters pertaining to asbestos and asbestos containing materials in which the state is involved.

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§5-6-6. City of Charleston may dedicate streets, property, etc., to commission.

Notwithstanding the provisions of any other law, the council of the city of Charleston is hereby authorized to dedicate to the commission for a project any street, real property, easements or rights in land or any combination of the foregoing owned by such city.

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§5-6-7. Contracts with commission to be secured by bond; competitive bids required for certain contracts.

The commission shall construct a project pursuant to a contract or contracts. Every such contract shall be secured by a bond meeting the requirements of section thirty-nine, article two, chapter thirty-eight of this code.

No contract or contracts for the construction, remodeling, renovation or repair of any building or buildings or any approaches, structures or facilities incidental thereto, or for the equipping and furnishing of any building or buildings, when the anticipated expenditure therefor will exceed the sum of $5,000, shall be entered into except upon the basis of competitive sealed bids: Provided, That effective with the effective date of the amendments to this section, no contract or contracts for the construction, remodeling, renovation or repair of any building or buildings or any approaches, structures or facilities incidental thereto, or for the equipping and furnishing of any building or buildings, when the anticipated expenditure therefor will exceed the sum of $10,000, shall be entered into except upon the basis of such bids. Such bids shall be obtained by public notice soliciting such bids published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which any such contract is to be performed. The publication shall be completed at least fourteen days prior to the final date for the submission of bids. The commission may in addition to such publication also solicit sealed bids by sending requests by mail to prospective bidders. The contract shall be awarded to the lowest responsible bidder, unless any and all bids are rejected, in which event new bids shall be sought by again publishing notice as aforesaid. Any bid, with the name of the bidder, shall be entered on a record and each record, with the successful bid indicated thereon, shall, after the award of any contract, be open to public inspection in the office of the secretary of the commission.

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§5-6-8. Commission empowered to issue state building revenue bonds after legislative authorization; form and requirements for bonds; procedure for issuance; temporary bonds; funds, grants and gifts.

(a) The commission is hereby empowered to raise the cost of a project, as defined in this article, by the issuance of state building revenue bonds of the state, the principal of and interest on which shall be payable solely from the special revenue fund provided in section five of this article for the payment. Subject to the proceedings pursuant to which any bonds outstanding were authorized and issued pursuant to this article, the commission shall pledge the moneys in the special revenue fund, except that part of the proceeds of sale of any bonds to be used to pay the cost of a project and for the payment of the principal of and interest on bonds issued pursuant to this article. The pledge shall apply equally and ratably to separate series of bonds or upon the priorities as the commission shall determine. The bonds shall be authorized by resolution of the commission. The resolution shall recite an estimate by the commission of the cost, and shall provide for the issuance of bonds in an amount sufficient, when sold as provided in this section, to produce the cost, less the amount of any funds, grant or grants, gift or gifts, contribution or contributions received, or in the opinion of the commission expected to be received, from the United States of America or from any other source. The acceptance by the commission of any and all funds, grants, gifts and contributions, whether in money or in land, labor or materials, is hereby expressly authorized. All bonds shall have and are hereby declared to have all the qualities of negotiable instruments. The bonds shall bear interest at not more than twelve percent per annum, payable semiannually, and shall mature in not more than forty years from their date or dates, and may be made redeemable at the option of the state, to be exercised by the commission, at the price and under the terms and conditions, all as the commission may fix prior to the issuance of the bonds. The commission shall determine the form of the bonds, including coupons, if any, to be attached to the bonds to evidence the right of interest payments. The bonds shall be signed by the chairman and secretary of the commission, under the great seal of the state, attested by the Secretary of State, and the coupons, if any, attached to the bonds shall bear the facsimile signature of the chairman of the commission. In case any of the officers whose signatures appear on the bonds or coupons issued as authorized by this section shall cease to be officers before the delivery of the bonds, the signatures are nevertheless valid and sufficient for all purposes the same as if they had remained in office until the delivery. The commission shall fix the denominations of the 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 the state, or, at the option of the holder, at some bank or trust company within or without the State of West Virginia to be named in the bonds, in such medium as may be determined by the commission. The bonds and interest on the bonds are exempt from taxation by the State of West Virginia, or any county or municipality in the state. The commission may provide for the registration of the bonds in the name of the owners as to principal alone, and as to both principal and interest under the terms and conditions as the commission may determine, and shall sell the bonds in the manner as it may determine to be for the best interest of the state, taking into consideration the financial responsibility of the purchaser, and the terms and conditions of the purchase,

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and especially the availability of the proceeds of the bonds when required for payment of the cost of the project. The sale shall be made at a price not lower than a price which, computed upon standard tables of bond values, will show a net return of not more than thirteen percent per annum to the purchaser upon the amount paid for the bonds. The proceeds of the bonds shall be used solely for the payment of the cost of the project for which bonds were issued, and shall be deposited and checked out as provided by section five of this article, and under further restrictions, if any, as the commission may provide. If the proceeds of bonds issued for a project or a specific group of projects exceeds the cost of the project or projects, the surplus shall be paid into the fund provided for in section five of this article for payment of the principal and interest of the bonds. The fund may be used for the purchase of any of the outstanding bonds payable from the fund at the market price, but at not exceeding the price, if any, at which the bonds are in the same year redeemable, and all bonds redeemed or purchased shall be canceled immediately, and shall not again be issued. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Notwithstanding the provisions of sections nine and ten, article six, chapter twelve of this code, revenue bonds issued under the authority granted in this section are eligible as investments for the workers' compensation fund, teachers retirement fund, division of public safety, death, disability and retirement fund, West Virginia Public Employees Retirement System and as security for the deposit of all public funds. The revenue bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified and required by this article, or by the Constitution of the State. For all projects authorized under the provisions of this article, other than projects to be leased by the commission to the regional jail and correctional facilities authority or projects authorized pursuant to section eleven-a of this article, the aggregate amount of all issues of bonds outstanding at one time shall not exceed $62,500,000, including the renegotiation, reissuance or refinancing of any bonds, and no project in connection with which bonds are to be issued shall be initiated by the commission unless and until the Legislature, through enactment of general law, approves the purpose, the amount of bonds to be issued and the total cost for the project, construction or acquisition.

For projects which are to be leased by the commission to the regional jail and correctional facilities authority, legislative approval pursuant to the provisions of this section shall not be required if the projects have otherwise been approved by the Legislature in accordance with the provisions of subsection (m), section five, article twenty, chapter thirty-one of this code, and the limitations on the amount of revenue bonds which may be issued by the commission and the project costs shall be governed by the terms of any concurrent resolution adopted pursuant to that subsection.

(b) Notwithstanding anything in this article to the contrary, the commission is authorized to issue bonds, or otherwise finance or refinance the following projects, including the costs of issuance and sale of the bonds or financing, all necessary financial and legal expenses and creation of debt service reserve funds, in an amount not to exceed $21 million:

(1) Any or all of the state office buildings and adjoining real property being lease-purchased in Beckley, Charleston, Clarksburg, Fairmont, Huntington and Parkersburg;

(2) A facility to be obtained or constructed by the commission and leased to the Division of Motor Vehicles; and

(3) Property and buildings needed for state spending units in an amount not to exceed $3 million.

(c) Notwithstanding any other provision of this section, the commission is authorized to issue bonds for the purposes set forth in section eleven-a of this article in the aggregate amount of $100 million, including the renegotiation, reissuance or refinancing of any bonds issued for that purpose. If the proceeds of bonds issued under this subsection exceeds the cost of the project or projects, the surplus shall be paid into the education, arts, sciences and tourism fund established in section eleven-a of this article.

(d) The commission shall acquire the property being lease-purchased in the city of Charleston, located at 601 Morris Street, through a loan from the consolidated fund. The loan shall be under the terms and conditions set forth in section nineteen, article six, chapter twelve of this code.

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§5-6-9. Trustee for holders of bonds; contents of trust agreement.

The commission may enter into an agreement or agreements with any trust company, or with any bank having the powers of a trust company, whether 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 commission in respect of 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 building, and by any bank or trust company in which the proceeds of bonds or rentals shall be deposited, and for approval by the consulting architects of all contracts for construction. All expenses incurred in carrying out such agreement may be treated as a part of the cost of maintenance, operation and repairs of the project.

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§5-6-10. Trust existing in favor of existing bondholders.

The properties and interests in properties, real, personal and mixed, tangible and intangible, standing or held in the name of or for and in behalf of, or for the benefit of, the commission, or the State of West Virginia to the extent that the properties and interests in properties were acquired or improved by the expenditure of the proceeds of bonds previously issued by the commission, and the moneys, deposits, securities and choses in action and other rights held in the name of or for and in behalf of, or for the benefit of, the commission, other than moneys, deposits, securities, choses in action and other rights, or which are investments of: (1) Proceeds of bonds previously issued by the commission held for expenditure for completion of now existing projects of the commission; or (2) revenues of the commission from existing projects of the commission which, after provision for operation and maintenance expenses and coverage requirements not otherwise provided for, are in excess of sums required to pay the principal of and interest on the bonds of the commission previously issued, as and when due and payable; or (3) proceeds of bonds of the commission issued after the effective date of this section; or (4) revenues pledged for the repayment of bonds issued pursuant to section eleven-a of this article; or (5) revenues of the commission from projects acquired after the effective date of this section or constructed by the commission, are declared to be subject to and shall be held by the commission in trust for the satisfaction of the obligations evidenced by the bonds previously issued by the commission and the interest coupons on the bonds: Provided, That nothing in this article shall be taken to validate or to attempt to validate rights under any existing lease or other agreement entered into under the former provisions of this article between the commission and the State of West Virginia or any officer, department or agency of this state to the extent that the lease or agreement provides for payments from general tax revenues of the state. Until the satisfaction in full of the obligations evidenced by bonds previously issued by the commission, the commission shall hold, manage and operate the trust properties and interests in properties, moneys, deposits, securities and choses in action and other rights, separate from all other properties and interests in properties, moneys, deposits, securities and choses in action and other rights that may after the effective date of this section be held and owned by the commission. Upon the satisfaction of all of the obligations of the commission, all of the trust properties and interests in properties, moneys, deposits, securities and choses in action and other rights shall become and be free and clear of the trust.

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§5-6-11. Management and control of project.

The secretary of administration shall properly maintain, repair, operate, manage and control the project, fix the rates of rental, and establish bylaws and rules and regulations for the use and operation of the project, and may make and enter into all contracts or agreements necessary and incidental to the performance of its duties and the execution of its powers under this article.

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§5-6-11a. Special power of commission to transfer or expend bond proceeds for capital improvements at institutions of higher education, state parks and the Capitol Complex and to construct and lease a center for arts and sciences of West Virginia; limitations; state building commission authorized to issue revenue bonds; fund created; use of funds to pay for development of education, arts, sciences, and tourism projects.

(a) The Legislature finds and declares that in order to attract new business and industry to this state, to retain existing business and industry providing the citizens of this state with economic security and to advance the business prosperity and economic welfare of this state it is necessary to promote adequate higher education, arts, sciences, and tourism facilities, including infrastructure, for: (1) State-of-the-art educational opportunities for all citizens of this state; (2) tourism enhancements at state parks, the Capitol Complex or other tourism sites throughout the state; (3) hands-on arts and sciences training for the youth of West Virginia; and (4) programs using the performing arts as an educational tool. Therefore, in order to promote education, arts, sciences, and tourism, the Legislature finds that public financial support should be provided for constructing, equipping, improving, and maintaining capital improvement projects which promote education, arts, sciences, and tourism in this state.

(b) The State Building Commission shall, by resolution, in accordance with the provisions of this article, issue revenue bonds of the commission, from time to time, to pay for a portion of the cost of constructing, equipping, improving, or maintaining capital improvement projects under this section or to refund the bonds, at the discretion of the authority. The principal amount of the bonds issued under this section shall not exceed, in the aggregate, $100 million. Any revenue bonds issued on or after January 1, 1996, which are secured by lottery proceeds shall mature at a time or times not exceeding 25 years from their respective dates. The principal of, and the interest and redemption premium, if any, on the bonds shall be payable solely from the special fund provided in this section for the payment.

(c) There is hereby created in the State Treasury a special revenue fund named the Education, Arts, Sciences, and Tourism Debt Service Fund into which shall be deposited on and after July 1, 1996, the amounts specified in §29-22-18 of this code. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section. The commission may further provide in the resolution and in the trust agreement for priorities on the revenues paid into the Education, Arts, Sciences, and Tourism Debt Service Fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The bonds issued pursuant to this section shall be separate from all other bonds which may be or have been issued, from time to time, under the provisions of this article. The Education, Arts, Sciences, and Tourism Debt Service Fund shall be pledged solely for the repayment of bonds issued pursuant to this section. On or prior to May 1 of each year, commencing May 1, 1996, the commission shall certify to the State Lottery Director the principal and interest and

coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the Education, Arts, Sciences, and Tourism Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section.

After the commission has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the Education, Arts, Sciences, and Tourism Debt Service Fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(d) The commission shall expend $25 million of the bond proceeds for certified capital improvement projects at state institutions of higher education. For the purposes of certifying the projects which will receive funds from the bond proceeds, a committee shall be established and comprised of the Governor, or his or her designee, the secretary of the Department of Administration, the Secretary of the Department of Education and the Arts, the Chancellor of the University of West Virginia Board of Trustees, and the Chancellor of the Board of Directors of the State College System. The committee shall meet as often as necessary and take recommendations from any source whatever regarding the capital improvement projects at state institutions of higher education. The committee shall meet within 45 days of the effective date of this section. Prior to making its recommendations, the committee shall conduct at least two public hearings, one of which must be held outside of Kanawha County. Notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at least 14 days prior to the date of the public hearing. On or before September 15, 1996, the committee shall certify to the commission a list of those capital improvement projects at state institutions of higher education which will receive funds from the proceeds of bonds issued pursuant to this section. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

(e) The commission shall expend up to $26 million from the proceeds of the bonds authorized by this section to pay a portion of the costs of projects certified under this subsection for development, maintenance, or promotion of arts and sciences or constructing and equipping a center for arts and sciences of West Virginia located on a site acquired for that purpose. Any proceeds expended to pay a portion of project costs to construct and equip a center for arts and sciences of West Virginia shall not exceed 40 percent of the total cost of the project and permanent endowments for operation and maintenance, and bond proceeds shall not be expended until 60 percent of the total cost has been committed from sources other than bond proceeds. For the purposes of certifying the projects which will receive funds from the bond proceeds under this subsection, a committee shall be established and composed of the Governor, or his or her designee, the Secretary of the Department of Administration, the Director of the Division of Natural Resources, the Director of the West Virginia Development

Office and a representative of the Capitol Building Commission, other than the Secretary of the Department of Administration, who shall be selected by the Capitol Building Commission. The Capitol Building Commission shall select its representative within 30 days of the effective date of this section. The committee shall meet as often as necessary and take recommendations from any source whatever regarding which projects should be certified. The committee shall meet within 45 days of the effective date of this section. Prior to making its determination, the committee shall conduct one public hearing on the projects to be certified under this subsection. Notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in each congressional district at least 14 days prior to the date of the public hearing. The committee shall make its determination as to whether bond proceeds will be expended for the purposes set forth in this subsection and the amount to be expended for each project, on or before June 15, 1996. Thereafter, the decision may not be altered or amended other than by legislative enactment. The commission is authorized to acquire by purchase or lease real property to be used as the site for a center for arts and sciences of West Virginia; and notwithstanding the provisions of §5-6-7 of this code, enter into a long-term lease agreement with a nonprofit corporation organized under the laws of this state for operation and maintenance of the center. The nonprofit corporation shall, as consideration for any long-term lease agreement, complete the construction and equipping of the center and demonstrate to the satisfaction of the commission its financial ability to operate and maintain the center during the term of the lease agreement. The nonprofit corporation shall have at least six members on its board of directors which are appointed by the Governor with the advice and consent of the Senate. Of the six appointed members, three shall be selected from each congressional district: *Provided*, That none of the appointed members shall be a resident of Kanawha County. The members appointed by the Governor with the advice and consent of the Senate shall serve on the board for three-year staggered terms. Of the members first appointed by the Governor, one from each congressional district will serve a three-year term, one from each congressional district will serve a two-year term, and one from each congressional district shall serve a one-year term.

(f) The commission shall expend the balance of the bond proceeds for certified projects at state parks, the Capitol Complex, or other tourism sites. The committee established in subsection (e) of this section shall certify to the commission on or before September 15, 1996, a list of those capital improvement projects at state parks, the capitol complex, or other tourism sites which will receive funds from the proceeds of bonds issued pursuant to this section. The committee shall meet as often as necessary and take recommendations from any source whatever regarding the capital improvement projects at state parks, the capitol complex, or other tourism sites in this state. The committee shall meet within 45 days of the effective date of this section. Prior to making its recommendations, the committee shall conduct at least two public hearings on the projects to be certified under this subsection, one of which must be held outside of Kanawha County. Notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in each congressional district at least 14 days prior to the date of the public hearing. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

§5-6-11b. Power of commission to transfer project funds to other certified projects for state parks.

(a) The state building commission shall transfer unexpended funds allocated to any certified state park project under subsection (f), section eleven-a of this article that has been completed to any other state park project that has been certified under that subsection where the state park project has not been completed and the commission determines that the project is experiencing cost overruns and needs additional funding. Prior to transferring the funds, in consultation with the Division of Natural Resources, the commission shall identify all certified state park projects that will be completed with unexpended funds allocated to them and, in consultation with the Division of Natural Resources, shall prioritize the projects that need additional funding to achieve the best possible allocation of the unexpended funds.

(b) The provisions of subsection (f), section eleven-a of this article requiring public hearing do not apply to transfers of funds under subsection (a) of this section.

(c) The commission shall report all details of any transfer made pursuant to this section to the Joint Committee on Government and Finance within ten days of the date of the transfer.

WV Legislature

§5-6-11c. Power of the state building commission to transfer project funds to other projects for state capitol improvements and renovations.

(a) The state building commission shall transfer unexpended funds allocated to the capitol complex bus access facility project certified under subsection (f), section eleven-a of this article to other projects for state capitol improvements and renovations.

(b) The provisions of subsection (f), section eleven-a of this article requiring public hearing do not apply to transfers of funds under subsection (a) of this section.

WV Legislature

§5-6-12. Article not authority to create state debt.

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

WV Legislature

§5-6-13. Compliance with article and state Constitution only restrictions on construction and management of project.

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 prescribed by this article or are required by the Constitution of the State.

WV Legislature

§5-6-14. Article to be liberally construed.

This article, being necessary for the health, welfare and convenience of the citizens of the state, should be liberally construed to effectuate the purposes thereof.

WV Legislature

§5-6-15. Severability.

If any provision or any part or clause of any provision of this article, or the application thereof to any person or circumstance, is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions, or other parts or other clauses of any provision, or applications of this article, and to this end the provisions of this article are declared to be severable.

WV Legislature

§5-6-16. Sloped roofs required.

Notwithstanding any other provision of this code to the contrary, after June 1, 1999, any new building, which includes a roof, designed, constructed and maintained with public funds of the state, a county or a municipality shall have a roof of sufficient slope so that water will not accumulate into a pool on any area of the roof, in accordance with the current state building code as it relates to roofs and roof structures.

WV Legislature

§5-6-17. Display of the national motto and POW-MIA flag.

(a) The Legislature finds and declares that the national motto of “In God We Trust,” is an important part of our country’s history and heritage. Additionally, the POW-MIA flag is a symbol of citizen concern for U.S. military personnel taken as prisoners of war (POW) or listed as missing in action (MIA). These patriotic displays enhance our national pride and awareness, both of the sacrifices made by service members and our heritage as Americans.

(b) The governing authority of any public property, public buildings and any building, designed, constructed and maintained with public funds from the state, a county or a municipality may prominently display on the property or building, the American national motto, "In God We Trust." Costs associated with the display of the motto may be paid with any private donations, gifts, grants and bequests received by the governing authority.

(c) The governing authority of any public property, public buildings and any building, designed, constructed and maintained with public funds from the state, a county or a municipality may prominently display on the property or building, the POW-MIA flag in the same manner as prescribed by this code for the required display of national and state flags. Costs associated with the display of the POW-MIA flag may be paid with any private donations, gifts, grants and bequests received by the governing authority.

(d) The Department of Administration shall develop guidelines for display of the motto and POW-MIA flag.

WV Legislature