

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 414

(By Mr. Speaker, Mr. Thomas)



PASSED March 9 1939

In Effect ninety days from Passage

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AN ACT creating a "state office building commission" of West Virginia, providing for its powers and duties, authorizing it to construct on lands of the state or lands to be acquired in the city of Charleston, West Virginia, a state office building, and charge rentals for the use thereof, and to issue office building revenue bonds, providing for the payment of said bonds solely from the earnings of such building, declaring that no debt of the state shall be incurred in the exercise of any of the powers granted hereby, and providing for the acceptance of grants or contributions toward the cost of such building.

Be it enacted by the Legislature of West Virginia:

Section 1. *State Office Building Commission Created.*

2 There shall be and there hereby is created a commission to be

3 known as "The State Office Building Commission of West

4 Virginia'', and the same is hereby made a body corporate,
5 but is declared to be an agency of the state of West Virginia.
6 It shall consist of the Governor, the attorney general, and the
7 director of the budget of the state of West Virginia. The
8 Governor shall be chairman and the director of the budget
9 shall be secretary of the commission. The members of the
10 commission shall be paid or reimbursed for their necessary
11 expenses incurred under this act, but shall receive no com-
12 pensation for their services as members or officers of the
13 commission. Such expenses shall be paid solely from funds
14 provided under the authority of this act, and the commission
15 shall not proceed to exercise or carry out any authority or
16 power herein given it to bind said commission beyond the
17 extent to which money has been provided under the authority
18 of this act.

Sec. 2. *Definitions.* The following terms, wherever used
2 or referred to in this act, shall have the following meanings,
3 unless a different meaning clearly appears from the con-
4 text:

5 The term "commission" shall mean the state office building
6 commission of West Virginia created by section one of this

7 act, or if said commission shall be abolished, any board or
8 officer succeeding to the principal functions thereof, or upon
9 whom the powers given to said commission shall be given by
10 law.

11 The term "bonds" shall mean bonds issued by the com-
12 mission pursuant to this act.

13 The term "project" shall be deemed to mean collectively
14 the acquisition of land, the construction of a building or
15 buildings, together with incidental approaches, structures
16 and facilities, herein authorized to be constructed.

17 The term "cost of project" shall embrace the cost of con-
18 struction, the cost of all land, property, material and labor
19 which are deemed essential thereto, cost of improvements,
20 financing charges, interest during construction, and all other
21 expenses, including legal fees, trustees, engineers and archi-
22 tects fees which are necessarily or properly incidental to the
23 project.

24 The term "rent" or "rental" shall include all moneys re-
25 ceived for the use of any part of the project either from the
26 state of West Virginia or any officer, department or public
27 corporation thereof, or from any private corporation or per-

28 son, provided that nothing in this act shall be taken to author-
29 ize the payment by or on behalf of the state of any rent in
30 excess of the fair rental value of property used by or for
31 such state officer or department or public corporation in the
32 exercise of his or its statutory duties.

Sec. 3. *Powers of the Commission.* The commission shall

2 have power:

3 1. To sue and be sued, plead and be impleaded.

4 2. To have a seal and alter the same at pleasure.

5 3. To contract to acquire and to acquire, in the name of
6 the commission or of the state, by purchase or otherwise, real
7 property or rights or easements necessary or convenient for
8 its corporate purposes.

9 4. To acquire, hold and dispose of personal property for
10 its corporate purposes.

11 5. To make by-laws for the management and regulation of
12 its affairs.

13 6. With the consent of the attorney general of the state of
14 West Virginia to use the facilities of his office, assistants and
15 employees in all legal matters relating to or pertaining to
16 the commission.

17 7. To appoint officers, agents and employees, and fix their
18 compensation.

19 8. To make contracts, and to execute all instruments
20 necessary or convenient.

21 9. To construct a building or buildings on real property,
22 which it may acquire, or which may be owned by the state
23 of West Virginia, in the city of Charleston, as convenient as
24 may be to the capitol building, together with incidental ap-
25 proaches, structures and facilities, subject to such consent
26 and approval of the city of Charleston in any case as may
27 be necessary.

28 10. To maintain, construct and operate the project.

29 11. To charge rentals for the use of any part of the pro-
30 ject, subject to and in accordance with such agreements with
31 bondholders as may be made as hereinafter provided.

32 12. To issue negotiable bonds and to provide for the rights
33 of the holders thereof.

34 13. To enter on any lands and premises for the purpose of
35 making surveys, soundings and examinations.

36 14. To do all things necessary or convenient to carry out
37 the powers given in this act.

Sec. 4. *Funds of Commission.* 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 said moneys with any other moneys, but shall deposit them in a 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 commission, or of such other person as the commission may authorize to make such requisition. All deposits of such 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, and all banking institutions are authorized to give such security for such deposits. The state auditor and his 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.

Sec. 5. *City of Charleston Authorized to Dedicate Streets, Property, etc., to Commission.* Notwithstanding the provisions

3 of any other law, the council of the city of Charleston is
4 hereby authorized to dedicate to the commission for the pro-
5 ject any street, real property, easements and/or rights in
6 land owned by such city.

Sec. 6. Contracts of Commission to be Secured by Bond.

2 The commission shall construct the project pursuant to a
3 contract or contracts. Every such contract shall be secured
4 by a bond meeting the requirements of section thirty-nine,
5 article two, chapter thirty-eight of the code of West Virginia,
6 one thousand nine hundred thirty-one.

Sec. 7. Commission Empowered to Issue State Office Reve-

2 *nue Bonds; Grants and Gifts.* The commission is hereby
3 empowered to raise the cost of the project, as defined herein-
4 above, by the issuance of state office building revenue bonds
5 of the state, the principal of and interest on which bonds
6 shall be payable solely from the special fund herein pro-
7 vided for such payment. Such bonds shall be authorized by
8 resolution of the commission, which shall recite an estimate
9 by the commission of such cost, and shall provide for the
10 issuance of bonds in an amount sufficient, when sold as here-
11 inafter provided, to produce such cost, less the amount of

12 any grant or grants, gift or gifts received, or in the opinion
13 of the commission expected to be received from the United
14 States of America or from any other source. The accept-
15 ance by the commission of any and all such grants and gifts,
16 whether in money or in land, labor or materials, is hereby
17 expressly authorized. All such bonds shall have and are
18 hereby declared to have all the qualities of negotiable in-
19 struments under the law merchant. Such bonds shall bear
20 interest at not more than four per cent per annum, payable
21 semi-annually, and shall mature in not more than twenty-five
22 years from their date or dates, and may be made redeemable
23 at the option of the state, to be exercised by the commission,
24 at such price and under such terms and conditions as the com-
25 mission may fix prior to the issuance of such bonds. The com-
26 mission shall determine the form of such bonds, including
27 coupons to be attached thereto to evidence the right of in-
28 terest payments, which bonds shall be signed by the chairman
29 and secretary of the commission, under the great seal of the
30 state, attested by the secretary of state, and the coupons at-
31 tached thereto shall bear the facsimile signature of said chair-
32 man of the commission. In case any of the officers whose sig-

33 natures appear on the bonds or coupons shall cease to be such
34 officers before the delivery of such bonds, such signatures
35 shall nevertheless be valid and sufficient for all purposes the
36 same as if they had remained in office until such delivery.
37 The commission shall fix the denominations of said bonds, the
38 principal and interest of which shall be payable at the office
39 of the treasurer of the state of West Virginia, at the capitol
40 of said state, or, at the option of the holder, at some bank or
41 trust company in the city of New York to be named in the
42 bonds, in such medium as may be determined by the commis-
43 sion. The said bonds shall be exempt from taxation by the
44 state of West Virginia, or any county or municipality therein.
45 The commission may provide for the registration of such
46 bonds in the name of the owner as to principal alone, and as
47 to both principal and interest under such terms and conditions
48 as the commission may determine, and shall sell such bonds in
49 such manner as it may determine to be for the best interest of
50 the state, taking into consideration the financial responsibility
51 of the purchaser, and the terms and conditions of the pur-
52 chase, and especially the availability of the proceeds of the
53 bonds when required for payment of the cost of the project,

54 such sale to be made at a price not lower than a price which,
55 computed upon standard tables of bond values, will show a net
56 return of four per cent per annum to the purchaser upon the
57 amount paid therefor. The proceeds of such bonds shall be
58 used solely for the payment of the cost of the project, and
59 shall be deposited and checked out as provided by section four
60 of this act, and under such further restrictions, if any, as the
61 commission may provide. If the proceeds of such bonds, by
62 error in calculation or otherwise, shall be less than the cost
63 of the project, additional bonds may in like manner be issued
64 to provide the amount of the deficiency, and, unless otherwise
65 provided for in the trust agreement hereinafter mentioned,
66 shall be deemed to be of the same issue, and shall be entitled
67 to payment from the same fund, without preference or prior-
68 ity as the bonds before issued, provided that the aggregate
69 amount of all issues of bonds outstanding at one time shall not
70 exceed one million dollars. If the proceeds of bonds issued for
71 the project shall exceed the cost thereof, the surplus shall be
72 paid into the fund hereinafter provided for payment of the
73 principal and interest of such bonds. Such fund may be used
74 for the purchase of any of the outstanding bonds payable

75 from such fund at the market price, but at not exceeding the
76 price, if any, at which such bonds shall in the same year be
77 redeemable, and all bonds redeemed or purchased shall forth-
78 with be canceled, and shall not again be issued. Prior to the
79 preparation of definitive bonds, the commission may, under
80 like restrictions, issue temporary bonds with or without
81 coupons, exchangeable for definitive bonds upon the issuance
82 of the latter. Such revenue bonds may be issued without any
83 other proceedings or the happening of any other conditions or
84 things than those proceedings, conditions and things which
85 are specified and required by this act, or by the constitution
86 of the state. Revenue bonds issued under the authority herein
87 granted shall be eligible as investments for the workmen's
88 compensation fund and as security for the deposit of all
89 public funds.

Sec. 8. *Trustee for Holders of Bonds.* The commission
2 may enter into an agreement or agreements with any trust
3 company, or with any bank having the powers of a trust
4 company, either within or outside of the state, as trustee
5 for the holders of bonds issued hereunder, setting forth
6 therein such duties of the state and of the commission in

7 respect of the acquisition, construction, improvement, main-
8 tenance, operation, repair and insurance of the project, the
9 conservation and application of all moneys, the insurance of
10 moneys on hand or on deposit, and the rights and remedies
11 of the trustee and the holders of the bonds, as may be agreed
12 upon with the original purchasers of such bonds, and in-
13 cluding therein provisions restricting the individual right
14 of action of bondholders as is customary in trust agreements
15 respecting bonds and debentures of corporations, protecting
16 and enforcing the rights and remedies of the trustee and
17 the bondholders, and providing for approval by the original
18 purchasers of the bonds of the appointment of consulting
19 architects, and of the security given by those who contract to
20 construct the building, and by any bank or trust company,
21 in which the proceeds of bonds or rentals shall be deposited,
22 and for approval by the consulting architects of all contracts
23 for construction. All expenses incurred in carrying out such
24 agreement may be treated as a part of the cost of mainte-
25 nance, operation and repairs of the project.

Sec. 9. *Management and Control of Project.* The commis-
2 sion shall properly maintain, repair, operate, manage and

3 control the project, fix the rates of rental, and establish
4 by-laws and rules and regulations for the use and operation
5 of the project, and may make and enter into all contracts
6 or agreements necessary and incidental to the performance
7 of its duties and the execution of its powers under this act.

Sec. 10. *Act Not Authority to Create State Debt.* Nothing
2 in this act contained shall be so construed or interpreted as
3 to authorize or permit the incurring of state debt of any
4 kind or nature as contemplated by the provisions of the con-
5 stitution of the state of West Virginia in relation to state
6 debt.

Sec. 11. *Compliance with This Act and State Constitution*
2 *Only Restrictions on Construction and Management of*
3 *Project.* It shall not be necessary to secure from any officer
4 or board not named in this act any approval or consent,
5 or any certificate or finding, or to hold an election, or to
6 take any proceedings whatever, either for the construction
7 of such project, or the improvement, maintenance, operation
8 or repair thereof, or for the issuance of bonds hereunder,
9 except such as are prescribed by this act or are required by
10 the constitution of the state.

Sec. 12. *Act to Be Liberally Construed.* This act being
2 necessary for the health, welfare and convenience of the
3 citizens of the state, it should be liberally construed to
4 effectuate the purposes thereof.

Sec. 13. *Provisions of Act Separable.* The sections, pro-
2 visions and parts of this act are separable, and are not matters
3 of mutual essential inducement, and it is the intention to
4 confer the whole or any part of the powers herein provided
5 for, and if any of the sections or provisions, or parts thereof,
6 are for any reason illegal, it is the intention that the remain-
7 ing sections and provisions, or parts thereof, shall remain in
8 full force and effect.

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

E. O. Wiseman

Chairman Senate Committee

Lepe B. Walker

Chairman House Committee

Originated in the

House of Delegates

Takes effect

ninety days from passage.

Charles Smith

Clerk of the Senate

Geo. Stace

Clerk of the House of Delegates

William Brown

President of the Senate

James Tay Thomas

Speaker House of Delegates

The within *March* this the *16th*

day of *March*, 1933.

John G. Lee

Governor.



Filed in the office of the Secretary of State
of West Virginia. **MAR 17 1933**

Wm. S. O'BRIEN,
Secretary of State