

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953



ENROLLED

HOUSE BILL No. 387

(By Mr. Speaker, Mr. Flammery)



PASSED March 12, 1953

In Effect immediately from Passage



387

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House Bill No. 387

(By MR. SPEAKER, MR. FLANNERY)

[Passed March 12, 1953; in effect ninety days from passage.]

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article eight-b, relating to the issuance and payment of revenue bonds to finance the construction of self-liquidating recreational facilities in state parks and forests.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article eight-b, to read as follows:

Article 8-b. Revenue Bonds for Park Development.

Section 1. *Definitions.*—"Director" shall mean the director of conservation or any board or officer succeeding to the powers now conferred by law upon the director of conservation.

5 “Recreational facilities” shall mean and embrace cabins,
6 lodges, swimming pools, golf courses, restaurants, com-
7 missaries and other revenue producing facilities in any
8 state park or forest.

9 “Bonds” shall mean bonds issued by the director pur-
10 suant to this article.

11 “Project” shall be deemed to mean collectively the ac-
12 quisition of land, the construction of any buildings or
13 other works, together with incidental approaches, struc-
14 tures and facilities, reasonably necessary and useful in
15 order to provide new or improved recreational facilities.

16 “Cost of project” shall embrace the cost of construction,
17 the cost of all land, property, material and labor which
18 are deemed essential thereto, cost of improvements, financ-
19 ing charges, interest during construction, and all other
20 expenses, including legal fees, trustees’, engineers’ and
21 architects’ fees which are necessarily or properly inci-
22 dental to the project.

23 “Rent or rental” shall include all moneys received for
24 the use of any recreational facility.

Sec. 2. Authority of Director to Issue Park Development

2 *Revenue Bonds; Grants and Gifts.*—The director, with the
3 approval of the governor, is hereby empowered to raise
4 the cost of any project, as defined hereinabove, by the
5 issuance of park development revenue bonds of the state,
6 the principal of and interest on which bonds shall be
7 payable solely from the special fund herein provided for
8 such payment. Such bonds shall be authorized by order
9 of the director, approved by the governor, which shall
10 recite an estimate by the director of the cost of the project,
11 and shall provide for the issuance of bonds in an amount
12 sufficient, when sold as hereinafter provided, to produce
13 such cost, less the amount of any grant or grants, gift or
14 gifts received, or in the opinion of the director expected
15 to be received from the United States of America or from
16 any other source. The acceptance by the director of any
17 and all such grants and gifts, whether in money or in
18 land, labor or materials, is hereby expressly authorized.
19 All such bonds shall have and are hereby declared to have
20 all the qualities of negotiable instruments under the law
21 merchant. Such bonds shall bear interest at not more
22 than four per cent per annum, payable semi-annually, and

23 shall mature in not more than twenty-five years from
24 their date or dates, and may be made redeemable at the
25 option of the state, to be exercised by the director at such
26 price and under such terms and conditions as the director
27 may fix prior to the issuance of such bonds. The director
28 shall determine the form of such bonds, including coupons
29 to be attached thereto to evidence the right of interest
30 payments, which bonds shall be signed by the director,
31 under the great seal of the state, attested by the secretary
32 of state, and the coupons attached thereto shall bear the
33 facsimile signature of the director. In case any of the
34 officers whose signatures appear on the bonds or coupons
35 shall cease to be such officers before the delivery of such
36 bonds, such signatures shall nevertheless be valid and
37 sufficient for all purposes the same as if they had remained
38 in office until such delivery. The director shall fix the
39 denominations of the bonds, the principal and interest of
40 which shall be payable at the office of the treasurer of the
41 state of West Virginia, at the capitol of the state, or, at
42 the option of the holder, at some bank or trust company in
43 the city of New York to be named in the bonds in such

44 medium as may be determined by the director. Such bonds
45 shall be exempt from taxation by the state of West Vir-
46 ginia, or any county or municipality therein. The director
47 may provide for the registration of such bonds in the
48 name of the owner as to principal alone, and as to both
49 principal and interest under such terms and conditions
50 as the director may determine, and shall sell such bonds
51 in such manner as he may determine to be for the best
52 interest of the state, taking into consideration the financial
53 responsibility of the purchaser, and the terms and condi-
54 tions of the purchase, and especially the availability of
55 the proceeds of the bonds when required for payment of
56 the cost of the project, such sale to be made at a price
57 not lower than a price which, computed upon standard
58 tables of bond values, will show a net return of five per
59 cent per annum to the purchaser upon the amount paid
60 therefor. The proceeds of such bonds shall be used solely
61 for the payment of the cost of the project, and shall be
62 deposited and checked out as provided by section four
63 of this article, and under such further restrictions, if any,
64 as the director may provide. If the proceeds of such bonds,

65 by error in calculation or otherwise, shall be less than the
66 cost of the project, additional bonds may in like manner
67 be issued to provide the amount of the deficiency, and
68 unless otherwise provided for in the trust agreement here-
69 inafter mentioned, shall be deemed to be of the same issue,
70 and shall be entitled to payment from the same fund,
71 without preference or priority as the bonds before issued.
72 If the proceeds of bonds issued for the project shall ex-
73 ceed the cost thereof, the surplus shall be paid into a
74 special fund to be established for payment of the principal
75 and interest of such bonds as specified in the trust agree-
76 ment provided for in the following section. Such fund
77 may be used for the purchase of any of the outstanding
78 bonds payable from such fund at the market price, but
79 at not exceeding the price, if any, at which such bonds
80 shall in the same year be redeemable, and all bonds re-
81 deemed or purchased shall forthwith be cancelled, and
82 shall not again be issued. Prior to the preparation of de-
83 finitive bonds, the director may, under like restrictions,
84 issue temporary bonds with or without coupons, exchange-
85 able for definitive bonds upon the issuance of the latter.

86 Such revenue bonds may be issued without any other
87 proceedings or the happening of any other conditions or
88 things than those proceedings, conditions and things which
89 are specified and required by this article, or by the con-
90 stitution of the state. Revenue bonds issued under the
91 authority herein granted shall be eligible as investments
92 for the workmen's compensation fund and as security for
93 the deposit of all public funds.

Sec. 3. *Trustee for Holders of Bonds.*—The director may
2 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 the state, as trustee for
5 the holders of bonds issued hereunder, setting forth there-
6 in such duties of the state and of the director in respect
7 to the acquisition, construction, improvement, mainten-
8 ance, operation, repair and insurance of the project, the
9 conservation and application of all moneys, the insurance
10 of moneys on hand or on deposit, and the rights and rem-
11 edies of the trustee and the holders of the bonds, as may
12 be agreed upon with the original purchasers of such bonds,
13 and including therein provisions restricting the individual

14 right of action of bondholders as is customary in trust
15 agreements respecting bonds and debentures of corpor-
16 ations, protecting and enforcing the rights and remedies
17 of the trustee and the bondholders, and providing for
18 approval by the original purchasers of the bonds of the
19 appointment of consulting architects, and of the security
20 given by those who contract to construct the project, and
21 by any bank or trust company in which the proceeds of
22 bonds or rentals shall be deposited, and for approval by
23 the consulting architects of all contracts for construction.
24 All expenses incurred in carrying out such agreement
25 may be treated as a part of the cost of maintenance, oper-
26 ation and repair of the project.

Sec. 4. *Proceeds of Bonds, Grants and Gifts.*—The pro-

2 ceeds of all bonds sold as provided in this article for any
3 park development project and the proceeds of any grant
4 or gift received by the director for such project shall be
5 paid to the treasurer of the state of West Virginia, who
6 shall not commingle such funds with any other moneys,
7 but shall deposit them in a separate bank account or
8 accounts. The moneys in such accounts shall be paid out

9 on check of the treasurer on requisition of the director,
10 or of such other person as the director may authorize to
11 make such requisition. All deposits of such moneys shall,
12 if required by the treasurer or the director, be secured by
13 obligations of the United States, of the state of West Vir-
14 ginia, or of the director, of a market value equal at all
15 times to the amount of the deposit, and all banking insti-
16 tutions are authorized to give such security for such
17 deposits.

Sec. 5. *Authority of Director to Pledge Revenue as*
2 *Security.*—The director shall have authority to pledge all
3 revenue derived from any project as security for any
4 bonds issued under this article to defray the cost of such
5 project. In any case in which the director may deem it
6 advisable, he shall also have the authority to pledge the
7 revenue derived from any existing recreational facilities
8 in any state park or forest as additional security for the
9 payment of any bonds issued under the provisions of this
10 article to pay the cost of any park development project
11 at such park or forest.

Sec. 6. *Management and Control of Project.*—The com-

2 mission shall properly maintain repair, operate, manage
3 and control the project, fix the rates of rental, and estab-
4 lish by-laws and rules and regulations for the use and
5 operation of the project, and may make and enter into
6 all contracts or agreements necessary and incidental to
7 the performance of its duties and the execution of its
8 powers under this article.

Sec. 7. Article Not Authority to Create State Debt.—

2 Nothing in this article contained shall be so construed or
3 interpreted as to authorize or permit the incurring of
4 state debt of any kind or nature as contemplated by the
5 provisions of the constitution of the state of West Virginia
6 in relation to state debt.

Sec. 8. Compliance with This Article and State Consti-
2 *tution Only Restrictions on Construction and Manage-*
3 *ment of Project.*—It shall not be necessary to secure from
4 any officer or board not named in this article any approval
5 or consent, or any certificate or finding, or to hold an
6 election, or to take any proceedings whatever, either for
7 the construction of any project, or the improvement,
8 maintenance, operation or repair thereof, or for the issu-

9 ance of bonds hereunder, except such as are prescribed
10 by this article or are required by the constitution of the
11 state.

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

L. M. Kinley
Chairman Senate Committee

E. H. Hamblen
Chairman House Committee

Originated in the House of Delegates

Takes effect *thirty days from* passage.

Howard Myers
Clerk of the Senate

R. M. [unclear]
Clerk of the House of Delegates

Ralph Bean
President of the Senate

W. E. Hannery
Speaker House of Delegates

The within *approved* this the *20th*
day of *March*, 1953.

William C. Masland
Governor



FILED IN THE OFFICE OF THE SECRETARY OF STATE
OF THE VIRGINIA
MAR 20 1953

D. PITT O'BRIEN,
SECRETARY OF STATE