

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1957



ENROLLED

HOUSE BILL No. 334

(By Mr. Myles)



PASSED March 6, 1957

In Effect from Passage



ENROLLED

House Bill No. 334

(By MR. MYLES)

[Passed March 8, 1957; in effect from passage.]

AN ACT to repeal sections seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight, article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said chapter fifteen by adding thereto a new article, numbered and designated article six, creating the state armory board and providing for the construction, acquisition, financing, operation, maintenance and disposition of armories and armory facilities by said board.

Be it enacted by the Legislature of West Virginia:

That sections seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight, article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said chapter fifteen by adding thereto a new article, numbered and designated article six, to read as follows:

Article 6. State Armory Board.

Section 1. *Legislative Purpose and Authority.*—In order
2 to provide modern and efficient facilities for the training,
3 operations, supply and administration of the national
4 guard, to provide for the defense of the state in time of
5 war and to repel invasion and suppress insurrection, to
6 provide facilities for use in time of fires, floods, riots and
7 other disasters, to provide public meeting places, recre-
8 ational and other facilities and to promote the general
9 welfare, the state armory board (hereinafter created) is
10 hereby authorized and empowered to construct, acquire,
11 improve, maintain, repair and operate armories and
12 armory projects (as hereinafter defined) and to issue
13 armory board revenue bonds of the state of West Vir-
14 ginia, payable solely from revenues, to pay the cost of
15 such projects.

Sec. 2. *Credit of the State not Pledged.*—Armory board
2 revenue bonds issued under the provisions of this article
3 shall not be deemed to constitute a debt of the state or
4 of any political subdivision thereof or a pledge of the
5 faith and credit of the state or of any such political sub-

6 division, but such bonds shall be payable solely from the
7 funds herein provided therefor from revenues. All such
8 bonds shall contain on the face thereof a statement to the
9 effect that neither the state nor any political subdivision
10 thereof shall be obligated to pay the same or the interest
11 thereon except from revenues of the project or projects
12 for which they are issued and that neither the faith and
13 credit nor the taxing power of the state or any political
14 subdivision thereof is pledged to the payment of the
15 principal of or the interest on such bonds.

Sec. 3. *Definitions.*—The following terms, wherever
2 used or referred to in this article shall have the following
3 meanings, unless a different meaning clearly appears from
4 the context.

- 5 a. The word “board” shall mean the state armory board
6 created by section four of this article, or if such board be
7 abolished, any board or officer succeeding to the functions
8 thereof, or upon whom the powers given by this article
9 to the board shall be given by law.
- 10 b. The word “bonds” shall mean armory board revenue

11 bonds issued under the provisions of section seven of this
12 article.

13 c. The term "armory" shall mean and embrace build-
14 ings, areas and centers and the equipment and other
15 facilities appurtenant thereto, including armories, arsenals,
16 ranges, camp grounds, service centers, training areas,
17 concentration areas, and warehouses, used for the train-
18 ing, administration, operations and maintenance of the
19 national guard or any combination or combinations there-
20 of, and any other equipment and facilities incorporated
21 therein for the accomplishment of the purposes set forth
22 in section one of this article.

23 d. The words "project" or "armory project" shall be
24 deemed to mean collectively the acquisition and con-
25 struction of buildings, structures and other works, together
26 with all roads, incidental approaches and other facilities
27 appurtenant thereto and all property, rights, easements
28 and other interests, which the board shall determine to
29 construct, acquire, or improve under the provisions of
30 this article in order to provide new or improved military

31 facilities, and the necessary maintenance and equipment
32 therefor.

33 e. The term "cost of project" shall embrace the cost of
34 construction, the cost of all land, rights-of-way, property
35 rights, easements and interest acquired by the board for
36 such construction, the cost of all property, material, labor,
37 machinery and equipment deemed essential thereto, cost
38 of improvements, financing charges, interest during con-
39 struction and for a period not to exceed one year after
40 completion of construction, cost of preliminary estimates,
41 plans, surveys and other expenses necessary or incident
42 to determining the feasibility or practicability of con-
43 struction of the project, administrative expenses and all
44 other expenses, including legal fees, trustees', engineers'
45 and architects' fees which may be necessary or incident
46 to the financing, construction and placing of the project
47 in operation.

48 f. The term "rent" or "rental" shall include all monies
49 received for the use of any part of the project, whether
50 from the state of West Virginia, or any officer, depart-
51 ment or public corporation thereof, or from any private

52 corporation or person, provided that nothing in this article
53 shall be taken to authorize the payment by or on behalf
54 of the state of any rent in excess of the fair rental value
55 of the property used by or for such state officer, or depart-
56 ment, or public corporation in the exercise of his or its
57 statutory duties.

Sec. 4. *State Armory Board*.—There is hereby created
2 a board to be known as the state armory board, and by
3 that name the board may sue and be sued, and plead and
4 be impleaded. It shall be a body corporate and is hereby
5 constituted an agency of the state. The exercise by the
6 board of the powers conferred by this article in the
7 acquisition, financing, construction, operation and main-
8 tenance of armories and armory projects shall be deemed
9 and held to be an essential governmental function. The
10 board shall consist of the governor, the secretary of state
11 and the auditor. The governor shall act as chairman of
12 the board and the secretary of state shall act as secretary
13 of the board. Two members of the board shall constitute
14 a quorum and the vote of two members shall be necessary
15 for any action taken by the board.

16 The members and officers of the board shall not be
17 entitled to compensation for their services, but each mem-
18 ber shall be reimbursed for his actual expenses neces-
19 sarily incurred in the performance of his duties.

Sec. 5. *Duties of the Board.*—The board shall be re-
2 sponsible for the acquisition, financing, construction, and
3 disposition of armories. It shall properly maintain, repair,
4 operate, manage and control all armories, fix the rates of
5 rental, and establish by-laws and rules and regulations
6 for their use and operation, and may make and enter into
7 all contracts, agreements necessary and incidental to the
8 performance of its duties and execution of its powers un-
9 der this article. It shall audit and approve all bills, claims
10 and accounts in connection with the construction, acquisi-
11 tion, maintenance, repair and operation of all armories
12 before such bills, claims and accounts shall be paid, and
13 it shall perform such other duties as this article may
14 require or as may be otherwise required by law.

Sec. 6. *Powers of the Board.*—The board is hereby au-
2 thorized and empowered:

3 a. To adopt by-laws for the regulation of its affairs and
4 the conduct of its business;

5 b. To adopt an official seal and alter the same at
6 pleasure.

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

12 d. To construct, maintain, repair and operate and dis-
13 pose of armories and armory projects at such locations
14 within the state as may be determined by the board.

15 e. To issue armory board revenue bonds of the state
16 of West Virginia payable solely from revenues, for the
17 purpose of paying all or any part of the cost of any one
18 or more armory projects.

19 f. To contract and to acquire in the name of the state
20 by purchase or otherwise on such terms and in such man-
21 ner as it may deem proper, or by the exercise of the right
22 of condemnation in the manner hereinafter provided, such
23 public or private lands, including public parks or reserva-

24 tions, or parts thereof or rights therein, rights-of-way,
25 property, rights, easements and interests, as it may deem
26 necessary for carrying out the provisions of this article;
27 and to dispose of the same in accordance with the law:
28 *Provided, however,* That no compensation shall be paid
29 for public lands owned by the state or any subdivision
30 thereof so taken and that all public property damaged
31 in carrying out the powers granted by this article, shall
32 be restored or repaired and placed in its original condition
33 as nearly as practicable.

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

37 h. To appoint officers and agents and to fix their com-
38 pensation.

39 i. To make and execute all contracts, agreements and
40 other instruments necessary or incident to the perform-
41 ance of its duties and for its corporate purposes.

42 j. To receive and accept from any federal agency grants
43 for or in aid of armory projects, and to receive and ac-
44 cept aid or contributions of either money, property, labor

45 or other things of value, from any source including coun-
46 ties, municipalities, boards of education and other politi-
47 cal subdivisions or agencies of the state.

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

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

54 m. To do all things necessary or convenient to carry
55 out the powers granted in this article, including the man-
56 agement and use of armories and armory projects not in-
57 consistent with their use of the state for armory purposes
58 as defined herein.

Sec. 7. Authority of Board to Issue Armory Board

2 *Revenue Bonds; Grants and Gifts.*—The board is hereby
3 empowered to raise the cost of the project, as defined
4 hereinabove, by the issuance of armory board revenue
5 bonds of the state of West Virginia, the principal of and
6 interest on which bonds shall be payable solely from the
7 special fund provided by section ten of this article for

8 such payment. Such bonds shall be authorized by a reso-
9 lution of the board which shall recite an estimate by the
10 board of such cost, and shall provide for the issuance of
11 bonds in an amount sufficient, when sold as hereinafter
12 provided to produce such cost, less the amount of any
13 grant or grants, gift or gifts, received or in the opinion of
14 the board expected to be received from the United States
15 of America, or from any other source. Such bonds shall
16 bear interest at not more than four per cent per annum,
17 payable semi-annually, and shall mature in not more
18 than thirty years from their date or dates, and may be
19 made redeemable at the option of the state, to be exer-
20 cised by the board, at such price and under such terms
21 and conditions as the board may fix prior to the issuance
22 of such bonds. The board shall fix the denominations of
23 said bonds, the principal and interest of which shall be
24 payable at the office of the treasurer of the state of West
25 Virginia, at the capitol of said state, or, at the option of
26 the holder, at some bank or trust company in the city of
27 New York, to be named in the bond, in such medium, as
28 may be determined by the board. Proceeds of such bonds

29 shall be used solely for the payment of the cost of the
30 project and shall be deposited and checked out as provided
31 by section nine of this article, and under such further
32 restrictions, if any, as the board may provide. The board
33 shall determine the form of such bonds, including coupons
34 to be attached thereto, which bonds shall bear the fac-
35 simile signature of the governor as chairman of the board
36 and shall be signed by the secretary of state as secretary
37 of the board, under the great seal of the state, attested
38 by the secretary of state, and the coupons attached thereto
39 shall bear the facsimile signature of the governor as chair-
40 man of the board. In case any of the officers whose signa-
41 tures appear on the bonds or coupons shall cease to be
42 such officers before the delivery of such bonds, such sig-
43 natures shall nevertheless be valid and sufficient for all
44 purposes the same as if they had remained in office until
45 such delivery. The board may provide for the registration
46 of such bonds in the name of the owner as to the prin-
47 cipal loan, and as to both principal and interest under
48 such terms and conditions as the board may determine,
49 and shall sell such bonds in such manner as it may be

50 determined to be for the best interests of the state, taking
51 into consideration the financial responsibility of the pur-
52 chaser, and the terms and conditions of the purchaser
53 and especially the availability of the proceeds of the
54 bonds when required for payment of the costs of the
55 project, such sales to be made at a price not lower
56 than a price which, computed upon standard tables
57 of bond values, will show a net return of five and
58 one-half per centum per annum to the purchaser upon
59 the amount paid therefor. If the proceeds of such bonds
60 by error and calculation or otherwise, shall be less than
61 the cost of the project, additional bonds may in like man-
62 ner be issued to provide the amount of the deficiency, and
63 unless otherwise provided for in the trust agreement here-
64 inafter mentioned, shall be deemed to be of the same issue,
65 and shall be entitled to payment from the same fund,
66 without preference or priority as to the bonds before issue.
67 If the proceeds of the bonds issued for the project shall
68 exceed the costs thereof, surplus shall be paid into the
69 fund provided by section ten of this article for payment
70 of the principal and interest of such bonds. Such fund

71 may be used for the purchase of any of the outstanding
72 bonds payable from such fund at the market price, but at
73 not exceeding the price, if any, of which bonds in the same
74 year may be redeemable, and all bonds redeemed or pur-
75 chased shall not again be issued.

Sec. 8. *Trustee of Holders of Bonds.*—The board 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 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 board 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 monies, the insurance
10 of monies on hand or on deposit, and the rights and
11 remedies of the trustee and the holders of the bonds, as
12 may be agreed upon with the original purchasers of such
13 bonds, and including therein provisions restricting the
14 individual right of action of bondholders as is customary
15 in trust agreements respecting bonds and debentures of
16 corporations, protecting and enforcing the rights and

17 remedies of the trustee and the bondholders, and pro-
18 viding for approval by the original purchasers of the bonds
19 of the appointment of consulting architects, and of the
20 security given by those who contract to construct the
21 projects and by the bank or trust company in which the
22 proceeds of the bonds or rental shall be deposited and
23 for approval by the consulting architects of all contracts
24 for construction. Any such trust agreement may pledge
25 or assign the rents or other revenues to be received by the
26 board, but shall not convey or mortgage any armory or
27 armory projects or any part thereof.

Sec. 9. *Application of Proceeds of Bonds, Grants and*
2 *Appropriations.*—The proceeds of all bonds issued and
3 sold under the provisions of this article, the proceeds of
4 any grants, gifts or contributions received by the board
5 and any appropriations for the construction or acquisition
6 of armory projects shall be paid to the treasurer of the
7 state of West Virginia who shall not co-mingle such monies
8 with other monies, but shall deposit them in separate bank
9 account or accounts. The monies in said accounts shall be
10 paid out on check of the treasurer on requisition of the

11 chairman of the board, or such person as the board may
12 authorize to make such requisition. All deposits of such
13 monies shall come if required by the treasurer or the
14 board be secured by obligations to the United States, of
15 the state of West Virginia or of the board, of a market
16 value equal at all times to the deposit and all banking in-
17 stitutions are authorized to give such security for such
18 deposits.

Sec. 10. *Rentals and Other Revenues.*—The board is
2 hereby authorized to fix, revise, charge and collect rent
3 for the use of armories or any part or parts thereof, and
4 to contract with the adjutant general of the state, with any
5 other officer, department or public corporation or political
6 subdivision thereof and with any person, partnership,
7 association or corporation desiring the use thereof, and to
8 fix the terms, conditions, rents and rates of charges for
9 such use: *Provided, however,* That the primary purpose
10 of armories shall be their use by the national guard, and
11 their use by other than the national guard shall be sub-
12 ject to and shall not interfere with such primary purpose.
13 Such rents shall be so fixed and adjusted in respect of

14 the aggregate of rents from armories in connection with
15 which the bonds of any issue shall have been issued as to
16 provide a fund sufficient with other revenues, if any, to
17 pay (a) the cost of maintaining, repairing and operating
18 such armories and (b) the principal of and interest on
19 such bonds as the same shall become due and payable, and
20 to create reserves for such purposes. All rents and other
21 revenues of the board received from the use of armories
22 shall be paid into a special account of the treasurer of the
23 state of West Virginia to be known as the general armory
24 fund and shall be used solely for the purposes of this
25 article. Such monies shall be checked out and secured in
26 the same manner as provided in section nine of this article.

Sec. 11. *Authority of Board to Pledge Revenue as Security.*—The board shall have authority to pledge all
2 revenue derived from any project as security for any bonds
3 issued under this article to defray the cost of such project.
4 In any case in which the board may deem it advisable it
5 shall also have the authority to pledge the revenue de-
6 rived from any existing armories as additional security for
7

8 the payment of any bonds issued under the provisions of
9 this article to pay the cost of any armory project.

Sec. 12. *Title to Vest in State.*—Title to all property,
2 armories and armory projects, upon delivery and accept-
3 ance, shall vest in the state and shall be held in the name
4 of the state. The board may, upon such terms as the board
5 may deem to be in the best interest of the state, transfer
6 title to any armory to the United States, but may provide
7 for the retention by the state of civil and police jurisdic-
8 tion through such armory and a right to tax persons
9 residing thereon.

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

Sec. 13. *Lease of Armory or Armory Facilities by*
2 *Adjutant General.*—Nothing contained in this article shall

3 be construed as limiting the authority of the adjutant
4 general to enter into leases for armories on behalf of the
5 national guard or state guard.

Sec. 14. *Acquisition of Property; Condemnation.*—The
2 board is hereby authorized and empowered to acquire by
3 purchase, whenever it shall deem such purchase expedient,
4 any land, property, rights, rights-of-way, franchises, ease-
5 ments and other interests in lands as it may deem neces-
6 sary or convenient for the construction or operation of
7 any armory or armory project upon such terms and at
8 such price as may be considered by it to be reasonable
9 and can be agreed upon between the board and the owner
10 thereof, and to take title thereto in the name of the state.
11 Whenever a reasonable price cannot be agreed upon, or
12 whenever the owner is legally incapacitated, or is absent,
13 unknown or unable to convey valid title, the board is
14 hereby authorized and empowered to acquire, by the
15 exercise of the power of condemnation in accordance with
16 and subject to the provisions of any and all existing laws
17 and statutes applicable to the exercise of the power of
18 condemnation of property for public use, any land, prop-

19 erty, rights, rights-of-way, franchises, easements or other
20 property deemed necessary or convenient for the con-
21 struction or the efficient operation of any armory project
22 or necessary in the restoration of, public or private prop-
23 erty damaged or destroyed. In any condemnation pro-
24 ceedings the court having jurisdiction of the suit, action
25 or proceeding may make such orders as may be just to the
26 board and to the owners of the property to be condemned
27 and may require an undertaking or other security to
28 secure such owners against any loss or damage by reason
29 of the failure of the board to accept and pay for the
30 property, but neither such undertaking or security nor
31 any act or obligation of the board shall impose any
32 liability upon the state or the board except such as may
33 be paid from the funds provided under the authority of
34 this article.

Sec. 15. *Preliminary Expenses.*—The adjutant general
2 is hereby authorized in his discretion to expend out of
3 any funds available for the purpose such monies as may
4 be necessary for the study of any preliminary armory
5 project or projects and for making necessary estimates,

6 plans and surveys to determine the feasibility of the con-
7 struction and financing thereof; and all such expenses
8 incurred by the adjutant general prior to the issuance of
9 bonds under the provisions of this article shall be paid
10 by the adjutant general and charged to the appropriate
11 armory project, and the adjutant general shall keep separ-
12 ate records and accounts showing such amounts so charged.
13 Upon the sale of bonds for any armory project the funds
14 so expended by the adjutant general in connection with
15 such project shall be reimbursed to the adjutant general
16 from the proceeds of such bonds.

Sec. 16. *Municipal Aid for Armory Purposes; Issuance*
2 *of Bonds.*—Any county or municipality or two or more
3 municipalities jointly may raise and appropriate money in
4 the aid of the acquisition, construction, maintenance, re-
5 pair and improvement of any armory located therein, and
6 to that end may issue bonds payable not more than thirty
7 years after their issue and bearing interest at a rate not
8 exceeding six per cent per annum, and may deposit such
9 money and funds and the proceeds of the sale of such
10 bonds with the state treasurer in the special account pro-

11 vided by section nine of this article to the credit of the
12 proper armory project, and may make such further pro-
13 visions for the maintenance and improvement of such
14 armory and its joint use with the national guard as may
15 be deemed necessary: *Provided*, That whenever the board
16 deems it expedient and in furtherance of the purpose of
17 this article it may purchase and finish armories already
18 built or partly built. Counties and municipalities con-
19 structing and financing armories under the provisions of
20 this article or the provisions of article four-a, chapter
21 eight of this code shall convey such armories to the armory
22 board upon payment of all bonds, and interest thereon,
23 issued for the construction or improvement thereof.

Sec. 17. *Disposition of Abandoned and Unsuitable*
2 *Armories or Armory Facilities.*—Whenever any armory
3 shall be no longer needed by the national guard, or other
4 military organization, or in the judgment of the board is
5 unsuitable for military purposes, the board shall have the
6 authority, and it is hereby expressly empowered to sell,
7 transfer and convey such armory to the municipality,
8 county or county board of education or any two or more

9 of the same or combination thereof in which the same
10 is located, for public purposes, upon such terms as the
11 board may deem to be in the best interest of the state:
12 *Provided*, That if such municipality, county or board of
13 education shall not purchase such armory, the board shall
14 then be authorized to sell, transfer and convey the same to
15 any person, firm, or corporation upon such terms as the
16 board may deem to be in the best interest of the state:
17 *Provided further*, That if the armory cannot be sold
18 in this manner, the board may lease it for other than mili-
19 tary purposes as provided in section ten of this article.

Sec. 18. *Exemption from Taxation*.—The exercise of the
2 powers granted in this article will be in all respects for
3 the benefit of the people of this state, and, as the construc-
4 tion, acquisition, improvement, operation and mainten-
5 ance of armories will constitute the performance of essen-
6 tial governmental functions, the board shall not be re-
7 quired to pay any taxes or assessments upon any armory
8 or any property acquired or used by the board under the
9 provisions of this article or upon the income therefrom,
10 and the bonds issued under the provisions of this article,

11 their transfer and the income therefrom, including any
12 profit made on the sale thereof, shall at all times be
13 exempt from taxation within the state.

Sec. 19. *Article Not Authority to Create State Debt.*—

2 Nothing in this article contained shall be so construed or
3 interpreted as to authorize and permit the incurring of
4 state debts 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, or any subdivision thereof.

Sec. 20. *Compliance With This Article and State Con-*

2 *stitution; 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 elec-
6 tion, or to take any proceedings whatever, either for the
7 construction of such project, or the improvement, main-
8 tenance, operation, or repair thereof, or for the issuance
9 of bonds hereunder except such as are provided by this
10 article or are required by the constitution of the state.

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

E. H. McCourt
Chairman Senate Committee

Witchell
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Thomas Meyer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Ralph J. Bean
President of the Senate

W. H. Clancy
Speaker, House of Delegates

The within approved this the 15th day of March, 1957.

Geoff. Underwood
Governor



Filed in the Office of the Secretary of State
of West Virginia **MAR 15 1957**
D. PITT O'BRIEN
SECRETARY OF STATE