WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED

HOUSE BILL No. 538

(By Mr. Abraham and Mr. Convey)

PASSED March 7, 1963

In Effect from Passage

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JOE F. BURDETT
SECRETARY OF STATE
ENROLLED

House Bill No. 558
(By Mr. Abrams and Mr. Covey)

[Passed March 7, 1963; in effect from passage.]

AN ACT authorizing the county court of the county of Raleigh
to create a tourist development authority and providing
for the membership and purposes of the authority; for the
appointment and removal of members; for the acquisition
by the authority of real estate and personal property; for
the acquisition, construction, improvement, maintenance
and operation of public tourist facilities; for corporate
existence of the authority; for the issuance of mortgage
bonds, revenue bonds, other bonds, debentures, notes and
securities, and the giving of security for the payment
thereof; for tax exemption for the property, funds and
obligations of the authority; for acquisition by the author-
ity from the county court of the county of Raleigh of a
tract of land of approximately two thousand four hundred acres situate in Trap Hill district of said county on which is located an artificial body of water known as "Lake Stephens"; and the improvement of said tract and operation of the facilities located thereon; for the authority to lease said tract or any part thereof; for the county court of the county of Raleigh to become the lessee of said tract or any part thereof and pay the rental therefor; for contributions to the funds of the authority by the county court of the county of Raleigh and others; for the keeping of the funds and accounts of the authority; for the disposition of any surplus funds; for the covering of the employees of the authority by workmen's compensation; and for dissolution of the authority.

Be it enacted by the Legislature of West Virginia:

Section 1. Lake Stephens Tourist Development Authority.—The county court of the county of Raleigh is hereby authorized to create and establish a public agency to be known as the "Lake Stephens Tourist Development Authority" (hereinafter called the authority) for the purposes and in the manner hereinafter set forth.
Sec. 2. Purposes.—The authority is hereby authorized and empowered to acquire, equip, construct, improve, maintain and operate public tourist facilities with all usual and convenient appurtenances, including but not limited to recreational facilities, in Raleigh county, West Virginia, to serve as a public operated tourist facility.

Sec. 3. Members of the Authority.—The management and control of the authority, its property, operations, business and affairs, shall be lodged in a board of five persons who shall be known as “Members of the Authority”, each of whom shall be appointed for a term of five years, except that as to the first five appointed to the first board appointed, the term of one member shall expire on the first day of July next ensuing and the term of the next member shall expire on the first day of July two years thereafter, the term of another member shall expire on the first day of July three years thereafter, the term of another member shall expire on the first day of July four years thereafter, and the term of the remaining member shall expire on the first day of July five years thereafter.
All members shall be appointed by the county court of the county of Raleigh and no more than three shall be members of the same political party, nor shall they hold any political office of any nature: Provided, however, That excepting the county court members of the authority not more than one member shall be appointed from the same magisterial district.

Sec. 4. Removal of Member.—The members of the authority shall be removable only for cause. If the county court of the county of Raleigh desires to remove a member of the authority it shall notify said member in writing, stating the reasons for the county court of Raleigh desiring said removal. Within ten days of the receipt by the member of the authority of the written notice of removal, said member, if he so desires, may have a hearing before the county court of the county of Raleigh, and any such hearing shall be held within ten days of the member's request for said hearing. Any member so removed shall have the right to petition the circuit court of Raleigh county to review the action of said county court.
Sec. 5. Substitution of Members.—If any member of the authority die, or resign, or be removed, or for any other reason cease to be a member of the authority, the county court of the county of Raleigh shall appoint another person to fill the unexpired portion of the term of such member.

Sec. 6. Qualification of Members of the Authority.—All members of the board of the authority shall be citizens of West Virginia, over thirty years of age, and residents of Raleigh county: Provided, however, That no person representing any person, partnership or corporation doing business with the authority shall be eligible for membership on the board.

Sec. 7. Compensation of Members of the Authority.—No member of the board of the authority shall receive any compensation, whether in form of salary, per diem allowances or otherwise, for or in connection with his services as member. Each member shall, however, be entitled to reimbursement by the authority for any necessary expenditures in connection with the performance of his general duties as such member.
Sec. 8. Authority to be a Public Corporation.—The authority when created, and the members thereof, shall constitute and be a public corporation under the name of "Lake Stephens Tourist Development Authority" and as such shall have perpetual succession, may contract and be contracted with, sue and be sued, plead and be impleaded, and have and use a common seal.

Sec. 9. Powers.—The authority is hereby given power and authority as follows:

1. To make and adopt all necessary by-laws, rules and regulations for its organization and operations not inconsistent with law;

2. To elect its own officers, to appoint committees and to employ and fix the compensation for personnel necessary for its operation;

3. To enter into contracts with any person, governmental department, firm or corporation, including both public and private corporation, and generally to do any and all things necessary or convenient for the purpose of acquiring, equipping, constructing, maintaining, improving, extending, financing and operating public tourist
facilities and all usual and convenient appurtenant ac-
tivities and facilities in Raleigh county, West Virginia.

(4) To delegate any authority given to it by law to
any of its officers, committees, agents or employees;

(5) To apply for, receive and use grants in aid, do-
nations and contributions from any source or sources,
including but not limited to the federal government and
any agency thereof, excluding the state of West Virginia,
and to accept and use bequests, devices, gifts and dona-
tions from any person, firm or corporation;

(6) To acquire lands and hold title thereto in its
own name;

(7) To purchase, own, hold, sell and dispose of per-
sonal property and to sell, lease or otherwise dispose of
any real estate which it may own;

(8) To borrow money and execute and deliver negoti-
tiable notes, mortgage bonds, other bonds, debentures,
and other evidences of indebtedness therefor, and give
such security therefor as shall be requisite, including
giving a mortgage or deed of trust on its Lake Stephens
property and facilities in connection with the issuance of mortgage bonds;

(9) To raise funds by the issuance and sale of revenue bonds in the manner provided by the applicable provisions of article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, it being hereby expressly provided that the authority is a "municipal authority" within the definition of that term as used in said article four-a, chapter eight of the code; and

(10) To expend its funds in the execution of the powers and authority herein given.

**Sec. 10. Indebtedness of the Authority.**—The authority may incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with carrying out its purposes as hereinbefore mentioned. No statutory limitation with respect to the nature or amount of indebtedness which may be incurred by municipalities or other public bodies shall apply to indebtedness of the authority. No indebtedness of any nature of the
authority shall constitute an indebtedness of the county
court of the county of Raleigh, nor of said county, or a
charge against any property of said county. No obliga-
tion incurred by the authority shall give any right against
any member of the county court of the county of Raleigh
or any member of the board of the authority. The rights
of creditors of the authority shall be solely against the
authority as a corporate body and shall be satisfied only
out of property held by it in its corporate capacity.

Sec. 11. Agreements in Connection with Obtaining
Funds.—The authority may, in connection with obtaining
funds for its purposes, enter into any agreement with
any person, firm or corporation, including the federal
government, or any agency or subdivision thereof, con-
taining such provisions, covenants, terms and conditions
as the authority may deem advisable.

Sec. 12. Right of Eminent Domain.—The authority
herein created shall not have the power to exercise the
right of eminent domain.

Sec. 13. Property, Bonds and Obligations of Authority
Exempt From Taxation.—The authority shall be exempt
from the payment of any taxes or fees to the state or any subdivisions thereof or to any officer or employee of the state or of any subdivisions thereof. The property of the authority shall be exempt from all local and municipal taxes. Bonds, notes, debentures and other evidence of indebtedness of the authority are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest thereon, shall be exempt from taxes.

Sec. 14. County Commissioners Authorized to Convey Present Stephens Lake Properties and Facilities to the Authority.—The county court of the county of Raleigh is hereby authorized to convey to the authority the present property owned by the county of Raleigh, situate in the Trap Hill district of said county comprising two thousand four hundred acres, more or less, on which is located an artificial body of water known as Lake Stephens, together with all the appurtenances and facilities therewith, such conveyance to be without consideration or for such price and upon such terms and conditions
as the county court of the county of Raleigh shall deem proper.

Sec. 15. Authority May Lease Lake and Facilities to the County Court of the County of Raleigh or Other Lessee.—The authority may lease Lake Stephens and the property on which it is situated, in whole or in part, all the appurtenances and facilities therewith to the county court of the county of Raleigh or to any other available lessee or lessees at such rental and upon such terms and conditions as to the authority shall seem proper. If the authority determines to lease the property and its appurtenances and facilities, as a whole, it shall first offer the same to the county court of the county of Raleigh upon an annual lease, and it shall not lease said property and its appurtenances and facilities as a whole to any other lessee until the county court of the county of Raleigh has notified the authority that it does not desire to lease said properties, which notice shall be given within thirty days after notice by the authority of a desire on its part to lease the property as a whole. The county court of the county of Raleigh is hereby authorized to enter into a
lease with the authority for said property and appurtenances and facilities at such rental and upon such terms and conditions as it shall deem proper, and the county court of the county of Raleigh is hereby authorized to levy taxes as provided by law for the purpose of paying the rent for said property, appurtenances and facilities. The authority, however, may lease one or more portions of said property and lake situated thereon without first offering the same to the county court of the county of Raleigh. Such lease shall be for some purpose associated with tourist accommodations, recreation or other related ties.

Sec. 16. Disposition of Surplus of Authority.—If the authority should realize a surplus, whether from operating the property or leasing it for operation, over and above the amount required for the maintenance, improvement and operation thereof and for meeting all required payments on its obligations, it shall set aside such reserve for future operations, improvements and contingencies as it shall deem proper and shall then apply the residue of such surplus, if any, to the payment of any recognized
and established obligations not then due; and after all such recognized and established obligations have been paid off and discharged in full, the authority shall, at the end of each fiscal year, set aside the reserve for future operations, improvements and contingencies, as aforesaid, and then pay the residue of such surplus, if any, to the county court of the county of Raleigh, to be used by said county court for general county purposes.

Sec. 17. Contributions to Authority by the County Court of the County of Raleigh and Others; Funds and Accounts of the Authority.—Contributions may be made to the authority from time to time by the county court of the county of Raleigh and by any persons, firms or corporations that shall desire so to do. All such funds and all other funds received by the authority shall be deposited in such bank or banks as the authority may direct and shall be withdrawn therefrom in such manner as the authority may direct. The authority shall keep strict account of all its receipts and expenditures and shall each quarter make a quarterly report to the county court of the county of Raleigh containing an itemized account
of its receipts and disbursements during the preceding quarter. Such report shall be made within sixty days after the termination of the quarter. Within sixty days after the end of each fiscal year, the authority shall make an annual report containing an itemized statement of its receipts and disbursements for the preceding year, and such annual report shall be published once a week for two successive weeks in two newspapers of opposite politics published in Raleigh county, West Virginia and of general circulation in Raleigh County, West Virginia. The books, records and accounts of the authority shall be subject to audit and examination by the office of the state tax commissioner of West Virginia and by any other proper public official or body in the manner provided by law.

Sec. 18. Employees to be Covered by Workmen's Compensation.—All employees of the authority eligible thereunder shall be deemed to be within the workmen's compensation act of West Virginia, and premiums shall be paid by the authority to the workmen's compensation fund as required by law.
Sec. 19. Dissolution of Authority.—The authority may
at any time pay off and discharge in full all of its indebt-
edness, obligations and liabilities, reconvey its properties,
appurtenances and facilities to the county court of the
county of Raleigh and be dissolved. Before making such
reconveyance of its properties, the authority shall first
publish notice of its intention so to do and of its intention
to be dissolved, once a week for four successive weeks in
two newspapers of opposite politics published in, and of
general circulation in Raleigh county, West Virginia. Cer-
tificates from the publishers of the papers showing such
publication shall be filed with the county court of the
county of Raleigh on or before the deed reconveying said
properties is delivered. Any funds remaining in the hands
of the authority at the time of the reconveyance of said
properties shall be by the authority paid over to the
county court of the county of Raleigh to be used by it for
purposes in connection with said properties. Upon the
payment of its indebtedness, obligations and liabilities,
the publishing of the notices aforesaid, the reconveyance
of its properties, and the paying over to the county court
of the county of Raleigh of any funds remaining in its hands, the authority shall cause a certificate showing its dissolution to be executed under its name and seal and to be recorded in the office of the clerk of the county court of Raleigh county, and thereupon its dissolution shall be complete.

Sec. 20. Automatic Termination of the Right to Establish the Authority.—If on or before the first day of July, one thousand nine hundred sixty-three, the county court of the county of Raleigh shall not have appointed the members of the authority who are to constitute the board for management of its business and affairs, as provided in section three hereof, all right to create and establish said authority under this act shall automatically terminate.

Sec. 21. Liberal Construction of Act.—It is the purpose of this act to provide for the acquisition, construction, improvement, extension, maintenance and operation of public tourist facilities and appurtenant facilities in a prudent and economical manner, and this act shall be liberally construed as giving to the authority full and complete power reasonably required to give effect to the pur-
poses hereof. The provisions of this act are in addition to and not in derogation of any power existing in the county court of the county of Raleigh under any constitutional or statutory provisions which it may now have, or may hereafter acquire.

Sec. 22. Provisions Severable.—The several sections and provisions of this act are severable, and if any section or provision hereof shall be held unconstitutional, all the remaining sections and provisions of this act shall nevertheless remain valid.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within bill passed this the 1st day of March, 1963.

Governor