

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963



ENROLLED

HOUSE BILL No. 558

(By Mr. Alexander and Mr. Coney)



PASSED March 7, 1963

In Effect from Passage



Filed in Office of the Secretary of State
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JOE F. BURDETT
SECRETARY OF STATE

#558

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 authority 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 Auth-

2 ~~orig~~^{ed}.—The county court of the county of Raleigh is
3 hereby authorized to create and establish a public agency
4 to be known as the "Lake Stephens Tourist Development
5 Authority" (hereinafter called the authority) for the
6 purposes and in the manner hereinafter set forth.

Sec. 2. Purposes.—The authority is hereby authorized
2 and empowered to acquire, equip, construct, improve,
3 maintain and operate public tourist facilities with all
4 usual and convenient appurtenances, including but not
5 limited to recreational facilities, in Ralieggh county, West
6 Virginia, to serve as a public operated tourist facility.

Sec. 3. Members of the Authority.—The management
2 and control of the authority, its property, operations,
3 business and affairs, shall be lodged in a board of five
4 persons who shall be known as “Members of the Author-
5 ity”, each of whom shall be appointed for a term of five
6 years, except that as to the first five appointed to the first
7 board appointed, the term of one member shall expire on
8 the first day of July next ensuing and the term of the
9 next member shall expire on the first day of July two
10 years thereafter, the term of another member shall ex-
11 pire on the first day of July three years thereafter, the
12 term of another member shall expire on the first day of
13 July four years thereafter, and the term of the remaining
14 member shall expire on the first day of July five years
15 thereafter.

16 All members shall be appointed by the county court of
17 the county of Raleigh and no more than three shall be
18 members of the same political party, nor shall they hold
19 any political office of any nature: *Provided, however, That*
20 excepting the county court members of the authority not
21 more than one member shall be appointed from the same
22 magisterial district.

Sec. 4. Removal of Member.—The members of the
2 authority shall be removable only for cause. If the county
3 court of the county of Raleigh desires to remove a mem-
4 ber of the authority it shall notify said member in writing,
5 stating the reasons for the county court of Raleigh desiring
6 said removal. Within ten days of the receipt by the mem-
7 ber of the authority of the written notice of removal, said
8 member, if he so desires, may have a hearing before the
9 county court of the county of Raleigh, and any such hear-
10 ing shall be held within ten days of the member's re-
11 quest for said hearing. Any member so removed shall
12 have the right to petition the circuit court of Raleigh
13 county to review the action of said county court.

Sec. 5. Substitution of Members.—If any member of
2 the authority die, or resign, or be removed, or for any
3 other reason cease to be a member of the authority, the
4 county court of the county of Raleigh shall appoint an-
5 other person to fill the unexpired portion of the term of
6 such member.

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

Sec. 7. Compensation of Members of the Authority.—
2 No member of the board of the authority shall receive
3 any compensation, whether in form of salary, per diem
4 allowances or otherwise, for or in connection with his
5 services as member. Each member shall, however, be
6 entitled to reimbursement by the authority for any neces-
7 sary expenditures in connection with the performance of
8 his general duties as such member.

Sec. 8. Authority to be a Public Corporation.—The

2 authority when created, and the members thereof, shall
3 constitute and be a public corporation under the name of
4 “Lake Stephens Tourist Development Authority” and as
5 such shall have perpetual succession, may contract and
6 be contracted with, sue and be sued, plead and be im-
7 pleaded, and have and use a common seal.

Sec. 9. Powers.—The authority is hereby given power

2 and authority as follows:

3 (1) To make and adopt all necessary by-laws, rules
4 and regulations for its organization and operations not
5 inconsistent with law;

6 (2) To elect its own officers, to appoint committees
7 and to employ and fix the compensation for personnel
8 necessary for its operation;

9 (3) To enter into contracts with any person, govern-
10 mental department, firm or corporation, including both
11 public and private corporation, and generally to do any
12 and all things necessary or convenient for the purpose
13 of acquiring, equipping, constructing, maintaining, im-
14 proving, extending, financing and operating public tourist

15 facilities and all usual and convenient appurtenant ac-
16 tivities and facilities in Raleigh county, West Virginia.

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

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

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

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

30 (8) To borrow money and execute and deliver nego-
31 tiable notes, mortgage bonds, other bonds, debentures,
32 and other evidences of indebtedness therefor, and give
33 such security therefor as shall be requisite, including
34 giving a mortgage or deed of trust on its Lake Stephens

35 property and facilities in connection with the issuance
36 of mortgage bonds;

37 (9) To raise funds by the issuance and sale of revenue
38 bonds in the manner provided by the applicable provi-
39 sions of article four-a, chapter eight of the code of West
40 Virginia, one thousand nine hundred thirty-one, as
41 amended, it being hereby expressly provided that the
42 authority is a "municipal authority" within the defini-
43 tion of that term as used in said article four-a, chapter
44 eight of the code; and

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

Sec. 10. Indebtedness of the Authority.—The authority
2 may incur any proper indebtedness and issue any ob-
3 ligations and give any security therefor which it may
4 deem necessary or advisable in connection with carrying
5 out its purposes as hereinbefore mentioned. No statutory
6 limitation with respect to the nature or amount of in-
7 debtedness which may be incurred by municipalities
8 or other public bodies shall apply to indebtedness of
9 the authority. No indebtedness of any nature of the

10 authority shall constitute an indebtedness of the county
11 court of the county of Raleigh, nor of said county, or a
12 charge against any property of said county. No obliga-
13 tion incurred by the authority shall give any right against
14 any member of the county court of the county of Raleigh
15 or any member of the board of the authority. The rights
16 of creditors of the authority shall be solely against the
17 authority as a corporate body and shall be satisfied only
18 out of property held by it in its corporate capacity.

Sec. 11. Agreements in Connection with Obtaining

2 **Funds.**—The authority may, in connection with obtaining
3 funds for its purposes, enter into any agreement with
4 any person, firm or corporation, including the federal
5 government, or any agency or subdivision thereof, con-
6 taining such provisions, covenants, terms and conditions
7 as the authority may deem advisable.

Sec. 12. Right of Eminent Domain.—The authority

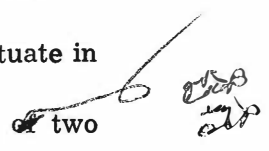
2 herein created shall not have the power to exercise the
3 right of eminent domain.

Sec. 13. Property, Bonds and Obligations of Authority

2 **Exempt From Taxation.**—The authority shall be exempt

3 from the payment of any taxes or fees to the state or any
4 subdivisions thereof or to any officer or employee of the
5 state or of any subdivisions thereof. The property of
6 the authority shall be exempt from all local and municipi-
7 pal taxes. Bonds, notes, debentures and other evidence
8 of indebtedness of the authority are declared to be issued
9 for a public purpose and to be public instrumentalities,
10 and, together with interest thereon, shall be exempt from
11 taxes.

Sec. 14. County Commissioners Authorized to Convey

2 **Present Stephens Lake Properties and Facilities to the**
3 **Authority.**—The county court of the county of Raleigh is
4 hereby authorized to convey to the authority the pres-
5 ent property owned by the county of Raleigh, situate in
6 the Trap Hill district of said county comprising ~~of~~ two 
7 thousand four hundred acres, more or less, on which is
8 located an artificial body of water known as Lake Ste-
9 phens, together with all the appurtenances and facili-
10 ties therewith, such conveyance to be without considera-
11 tion or for such price and upon such terms and conditions

12 as the county court of the county of Raleigh shall deem
13 proper.

Sec. 15. Authority May Lease Lake and Facilities to
2 **the County Court of the County of Raleigh or Other Les-**
3 **see.**—The authority may lease Lake Stephens and the
4 property on which it is situated, in whole or in part, all
5 the appurtenances and facilities therewith to the county
6 court of the county of Raleigh or to any other available
7 lessee or lessees at such rental and upon such terms and
8 conditions as to the authority shall seem proper. If the
9 authority determines to lease the property and its ap-
10 purtenances and facilities, as a whole, it shall first offer
11 the same to the county court of the county of Raleigh up-
12 on an annual lease, and it shall not lease said property
13 and its appurtenances and facilities as a whole to any other
14 lessee until the county court of the county of Raleigh
15 has notified the authority that it does not desire to lease
16 said properties, which notice shall be given within thirty
17 days after notice by the authority of a desire on its part
18 to lease the property as a whole. The county court of the
19 county of Raleigh is hereby authorized to enter into a

20 lease with the authority for said property and appurten-
21 ances and facilities at such rental and upon such terms
22 and conditions as it shall deem proper, and the county
23 court of the county of Raleigh is hereby authorized to
24 levy taxes as provided by law for the purpose of paying
25 the rent for said property, appurtenances and facilities.
26 The authority, however, may lease one or more portions
27 of said property and lake situated thereon without first
28 offering the same to the county court of the county of
29 Raleigh. Such lease shall be for some purpose associated
30 with tourist accommodations, recreation or other related
31 ties.

Sec. 16. Disposition of Surplus of Authority.—If the
2 authority should realize a surplus, whether from operat-
3 ing the property or leasing it for operation, over and
4 above the amount required for the maintenance, improve-
5 ment and operation thereof and for meeting all required
6 payments on its obligations, it shall set aside such reserve
7 for future operations, improvements and contingencies as
8 it shall deem proper and shall then apply the residue of
9 such surplus, if any, to the payment of any recognized

10 and established obligations not then due; and after all
11 such recognized and established obligations have been
12 paid off and discharged in full, the authority shall, at
13 the end of each fiscal year, set aside the reserve for fu-
14 ture operations, improvements and contingencies, as
15 aforesaid, and then pay the residue of such surplus, if
16 any, to the county court of the county of Raleigh, to be
17 used by said county court for general county purposes.

Sec. 17. Contributions to Authority by the County

2 **Court of the County of Raleigh and Others; Funds and Ac-**
3 **counts of the Authority.**—Contributions may be made to
4 the authority from time to time by the county court of
5 the county of Raleigh and by any persons, firms or cor-
6 porations that shall desire so to do. All such funds and
7 all other funds received by the authority shall be de-
8 posited in such bank or banks as the authority may di-
9 rect and shall be withdrawn therefrom in such manner
10 as the authority may direct. The authority shall keep
11 strict account of all its receipts and expenditures and shall
12 each quarter make a quarterly report to the county court
13 of the county of Raleigh containing an itemized account

14 of its receipts and disbursements during the preceding
15 quarter. Such report shall be made within sixty days
16 after the termination of the quarter. Within sixty days
17 after the end of each fiscal year, the authority shall make
18 an annual report containing an itemized statement of its
19 receipts and disbursements for the preceding year, and
20 such annual report shall be published once a week for two
21 successive weeks in two newspapers of opposite politics
22 published in Raleigh county, West Virginia and of general
23 circulation in Raleigh County, West Virginia. The books,
24 records and accounts of the authority shall be subject to
25 audit and examination by the office of the state tax com-
26 missioner of West Virginia and by any other proper pub-
27 lic official or body in the manner provided by law.

Sec. 18. Employees to be Covered by Workmen's Com-
2 **pensation.**—All employees of the authority eligible there-
3 under shall be deemed to be within the workmen's com-
4 pensation act of West Virginia, and premiums shall be
5 paid by the authority to the workmen's compensation
6 fund as required by law.

Sec. 19. Dissolution of Authority.—The authority may
2 at any time pay off and discharge in full all of its indebt-
3 edness, obligations and liabilities, reconvey its properties,
4 appurtenances and facilities to the county court of the
5 county of Raleigh and be dissolved. Before making such
6 reconveyance of its properties, the authority shall first
7 publish notice of its intention so to do and of its intention
8 to be dissolved, once a week for four successive weeks in
9 two newspapers of opposite politics published in, and of
10 general circulation in Raleigh county, West Virginia. Cer-
11 tificates from the publishers of the papers showing such
12 publication shall be filed with the county court of the
13 county of Raleigh on or before the deed reconveying said
14 properties is delivered. Any funds remaining in the hands
15 of the authority at the time of the reconveyance of said
16 properties shall be by the authority paid over to the
17 county court of the county of Raleigh to be used by it for
18 purposes in connection with said properties. Upon the
19 payment of its indebtedness, obligations and liabilities,
20 the publishing of the notices aforesaid, the reconveyance
21 of its properties, and the paying over to the county court

22 of the county of Raleigh of any funds remaining in its
23 hands, the authority shall cause a certificate showing its
24 dissolution to be executed under its name and seal and to
25 be recorded in the office of the clerk of the county court of
26 Raleigh county, and thereupon its dissolution shall be
27 complete.

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

Sec. 21. Liberal Construction of Act.—It is the purpose
2 of this act to provide for the acquisition, construction, im-
3 provement, extension, maintenance and operation of pub-
4 lic tourist facilities and appurtenant facilities in a pru-
5 dent and economical manner, and this act shall be lib-
6 erally construed as giving to the authority full and com-
7 plete power reasonably required to give effect to the pur-

8 poses hereof. The provisions of this act are in addition
9 to and not in derogation of any power existing in the
10 county court of the county of Raleigh under any consti-
11 tutional or statutory provisions which it may now have,
12 or may hereafter acquire.

Sec. 22. Provisions Severable.—The several sections
2 and provisions of this act are severable, and if any section
3 or provision hereof shall be held unconstitutional, all the
4 remaining sections and provisions of this act shall never-
5 theless remain valid.

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

O Ray Parker
Chairman Senate Committee

Ethel L. Chandler
Chairman House Committee

Originated in the House.

Takes effect *from* _____ passage.

Howard Meyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard E. Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within *approved* this the *14th*
day of *March*, 1963.

W. M. Baum
Governor

