

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1968

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## ENROLLED

*Com. Sub. for*

HOUSE BILL No. 260

(By ~~Mr.~~ *Originating in the Committee*  
*on the Judiciary*)

—●—

PASSED February 8, 1968

In Effect Ninety days from Passage



FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 2-16-68

# 260

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 260**  
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AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-c, authorizing county, municipal and county-municipal building commissions; relating to their powers and duties; and authorizing such commissions to issue revenue bonds.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 4C. COUNTY, MUNICIPAL, AND COUNTY-MUNICIPAL  
BUILDING COMMISSIONS.**

**§8-4C-1. County, municipal, and county-municipal building  
commissions authorized.**

1 Any county or municipality, or any county and one or  
2 more municipalities, or any two or more municipalities  
3 within any county or counties, or any combination there-  
4 of, may create and establish respectively a county build-  
5 ing commission, a municipal building commission, or a  
6 county-municipal building commission (hereinafter re-  
7 ferred to as commission or commissions). Such com-  
8 missions may be formed by an order or ordinance, as  
9 appropriate, by each governmental body establishing the  
10 same.

**§8-4C-2. Commissions are public corporations.**

1 Each commission, when created, shall be a public  
2 corporation and shall have perpetual existence.

**§8-4C-3. Members of commission.**

1 All property, powers and duties and the management  
2 and control of each commission shall be vested in a board  
3 consisting of representatives appointed by the govern-  
4 mental body or bodies creating and establishing such  
5 commission. In the case of a county building commis-

6 sion or a municipal building commission such board shall  
 7 consist of not less than three nor more than five members *and*  
 8 in the case of a county-municipal building commission  
 9 each participating county shall appoint three members  
 10 and each participating municipality shall appoint two  
 11 members. All members of any board shall be appointed  
 12 for terms of five years. Prior to making the initial  
 13 appointments to the board, the governmental body or  
 14 bodies shall make such initial appointments so that ap-  
 15 proximately one-fifth of the total number of members  
 16 of the board shall be appointed for a term of one year,  
 17 approximately one-fifth of the total number of members  
 18 of the board shall be appointed for a term of two years,  
 19 approximately one-fifth of the total number of members  
 20 of the board shall be appointed for a term of three years,  
 21 approximately one-fifth of the total number of members  
 22 of the board shall be appointed for a term of four years,  
 23 and approximately one-fifth of the total number of mem-  
 24 bers of the board shall be appointed for a term of five  
 25 years. As the term of each such initial appointee expires  
 26 the successor to fill the vacancy created by such expired

27 term shall be appointed for a term of five years.

28 If any member of any board dies, resigns or for any  
29 reason ceases to be a member of the board, the govern-  
30 mental body which such member represented shall ap-  
31 point another person to fill the unexpired portion of the  
32 term of such member. No more than two-thirds of the  
33 total number of members of the board of each commis-  
34 sion shall be from the same political party and no mem-  
35 ber of any such board shall hold any office or employ-  
36 ment under the United States of America, the state of  
37 West Virginia, any county or political subdivision there-  
38 of, or of any political party. All members of any board  
39 shall be residents of the county or municipality appoint-  
40 ing them. No member of any board shall receive any  
41 compensation for his services as such, but each member  
42 shall be reimbursed by the commission for any reason-  
43 able and necessary expenses actually incurred in the dis-  
44 charge of his duties as a member of the board.

**§8-4C-4. Powers.**

1 Each commission is empowered to:

2 (a) Sue and be sued;

3 (b) Contract and be contracted with;

4 (c) Adopt, use and alter a common seal;

5 (d) Make and adopt all necessary, appropriate and  
6 lawful bylaws, rules and regulations pertaining to its  
7 affairs;

8 (e) Elect such officers, appoint such committees and  
9 agents and employ and fix the <sup>now</sup>compensation of such em-  
10 ployees and contractors as may be necessary for the  
11 conduct of the affairs and operations of the commission;

12 (f) (1) Acquire, purchase, own and hold any prop-  
13 erty, real, personal or mixed, and (2) acquire, equip,  
14 construct, maintain and operate public buildings, struc-  
15 tures, projects and appurtenant facilities, of any type or  
16 types for which the governmental body or bodies creating  
17 such commission are permitted by law to expend public  
18 funds (all hereinafter referred to as facilities);

19 (g) Apply for, receive and use grants-in-aid, dona-  
20 tions and contributions from any source or sources, in-  
21 cluding but not limited to the United States of America,  
22 or any agency thereof, and accept and use bequests,  
23 devises, gifts and donations from any source whatso-  
24 ever;

25 (h) Sell, encumber or dispose of any property, real,  
26 personal or mixed;

27 (i) Issue negotiable bonds, notes, debentures, or other  
28 evidences of indebtedness and provide for the rights  
29 of the holders thereof, incur any proper indebtedness  
30 and issue any obligations and give any security there-  
31 for which it may deem necessary or advisable in con-  
32 nection with exercising powers as provided herein;

33 (j) Raise funds by the issuance and sale of revenue  
34 bonds in the manner provided by the applicable pro-  
35 visions of article four-a of this chapter, and each  
36 commission is hereby declared to be a "municipal  
37 authority" within the definition of that term as used  
38 in said article four-a;

39 (k) Exercise the power of eminent domain in the  
40 manner provided in chapter fifty-four of this code for  
41 business corporations, for the purposes set forth in  
42 subdivision (f) of this section, which purposes are hereby  
43 declared public purposes for which private property  
44 may be taken;

45 (l) Lease its property or any part thereof, for public

46 purposes, to such persons and upon such terms as the  
47 commission deems proper; and

48 (m) Do all things reasonable and necessary to carry  
49 out the foregoing powers.

**§8-4C-5. Indebtedness of commission.**

1 No statutory limitation with respect to the nature or  
2 amount of indebtedness which may be incurred by  
3 municipalities or other public or governmental bodies  
4 shall apply to the indebtedness of a commission. No in-  
5 debtedness of any nature of a commission shall con-  
6 stitute an indebtedness of any county or municipality  
7 creating and establishing such commission or a charge  
8 against any property of said counties or municipalities.  
9 No obligation incurred by any commission shall give any  
10 right against any member of the county court of said  
11 counties or any member of the governing board or body  
12 of any municipality or any member of the board of any  
13 commission. The rights of creditors of any commission  
14 shall be solely against the commission as a corporate  
15 body and shall be satisfied only out of property held by  
16 it in its corporate capacity.



**§8-4C-6. Disposition of surplus of commission.**

1 If a commission should realize a surplus over and  
2 above the amount required for the maintenance, im-  
3 provement and operation of its facilities and for meeting  
4 all required payments on its obligations, it shall set  
5 aside such a reserve for future operations, improvements  
6 and contingencies as it shall deem proper and shall then  
7 apply the residue of such surplus, if any, to the payment  
8 of any recognized and established obligations not then  
9 due; and after all such recognized and established  
10 obligations have been paid and discharged in full, each  
11 commission shall, at the end of each fiscal year, set  
12 aside the reserve for future operations, improvements  
13 and contingencies, as aforesaid, and then pay the residue  
14 of such surplus, if any, to the governmental bodies  
15 creating and establishing such commission in direct  
16 proportion to their financial contribution.

**§8-4C-7. Property, bonds and obligations of authority exempt from taxation.**

1 Each commission shall be exempt from the payment  
2 of any taxes or fees to the state or any political sub-  
3 divisions thereof and to any municipality therein. The

4 property of each commission shall be exempt from all  
 5 county and municipal taxes. Bonds, notes, debentures  
 6 and other evidences of indebtedness of each commission  
 7 are declared to be issued for a public purpose and to  
 8 be public instrumentalities, and, together with interest  
 9 thereon, shall be exempt from taxes.

**§8-4C-8. Contributions to the authority; funds and accounts of  
 the authority.**

1 Contributions may be made to each commission from  
 2 time to time by the governing body or bodies creating  
 3 and establishing it, and any other persons, firms or cor-  
 4 porations that may desire to do so. All funds received  
 5 by each commission shall be deposited in such bank or  
 6 banks as the board may determine and shall be withdrawn  
 7 therefrom in such manner as the board may direct. Each  
 8 commission shall keep strict account of all of its receipts  
 9 and expenditures and shall quarterly report to the  
 10 counties, municipalities, persons, firms or corporations  
 11 which have made contributions to it. Such report shall  
 12 contain an itemized account of the commission's receipts  
 13 and disbursements during the preceding quarter. Such  
 14 report shall be made within sixty days after the end

15 of the quarter. Within sixty days after the end of each  
16 fiscal year, the board shall make an annual report con-  
17 taining an itemized statement of its receipts and dis-  
18 bursements for the preceding year and publish the same  
19 as a Class II-O legal advertisement in compliance with  
20 the provisions of article three, chapter fifty-nine of this  
21 code. The publication area for such publication shall  
22 be each county in which the commission's facilities are  
23 located. The books, records and accounts of each com-  
24 mission shall be subject to audit and examination by  
25 the state tax department of West Virginia and by other  
26 proper public officials or bodies in the manner provided  
27 by law.

**§8-4C-9. Participation.**

1 Any county or municipality is hereby authorized  
2 and empowered to transfer and convey to a commission  
3 which it has created and established either alone or  
4 with another governmental body, property of any kind,  
5 heretofore acquired by said county or municipality, to  
6 carry out the purposes of said commission.

**§8-4C-10. Sale of property.**

1 In the event a majority of the governmental bodies  
2 contributing funds to a commission shall so direct in  
3 writing and if all indebtedness of said commission has  
4 been paid in full, the commission shall sell all or any  
5 part of its properties and assets so directed and distribute  
6 the proceeds thereof among the governmental bodies  
7 creating and establishing it in direct proportion to their  
8 financial contributions to the commission.

**§8-4C-11. Workmen's compensation.**

1 Each commission shall subscribe to the workmen's  
2 compensation fund of the state of West Virginia and  
3 pay all necessary premiums therein, to the end that all  
4 eligible employees of such commission shall be covered  
5 by workmen's compensation.

**§8-4C-12. Liberal construction.**

1 The provisions of this article are hereby declared to  
2 be remedial and shall be liberally construed to effect  
3 the purposes hereof. The provisions of this article  
4 are in addition to and not in derogation of any power  
5 granted to or vested in county courts and municipal

6 corporations by any constitutional, statutory or charter  
7 provisions which they or either of them may now have,  
8 or may hereafter acquire or adopt.

**§8-4C-13. Severability.**

1 If any provision of this article or the application thereof  
2 to any person or circumstance is held invalid, such  
3 invalidity shall not affect other provisions or applica-  
4 tions of the article, and to this end the provisions of this  
5 article are declared to be severable.

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

William Tamm  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Hughes  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

Howard W. Cannon  
President of the Senate

H. Laban White  
Speaker of the House of Delegates

The within approved this the 14  
day of February, 1968.

Harold C. Smith  
Governor



PRESENTED TO THE  
GOVERNOR

Date 2/13/68  
Time 2:20 P.M.

RECEIVED

FEB 15 1 03 PM '68

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA