WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1968

ENROLLED
Comm. Sub. jm

HOUSE BILL No. 260

(BY MR. ORIGINATING IN THE COMMITTEE
ON THE JUDICIARY

PASSED February 8, 1968

In Effect Threety days from Passage

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

COMMITTEE SUBSTITUTE

FOR

House Bill No. 260

(Originating in the Committee on the Judiciary)

[Passed February 8, 1968; in effect ninety days from passage.]

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 more municipalities, or any two or more municipalities within any county or counties, or any combination thereof, may create and establish respectively a county building commission, a municipal building commission, or a county-municipal building commission (hereinafter referred to as commission or commissions). Such commissions may be formed by an order or ordinance, as appropriate, by each governmental body establishing the same.

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

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

§8-4C-3. Members of commission.

1 All property, powers and duties and the management and control of each commission shall be vested in a board consisting of representatives appointed by the governmental body or bodies creating and establishing such commission. In the case of a county building commis-
tion or a municipal building commission such board shall consist of not less than three nor more than five members in the case of a county-municipal building commission each participating county shall appoint three members and each participating municipality shall appoint two members. All members of any board shall be appointed for terms of five years. Prior to making the initial appointments to the board, the governmental body or bodies shall make such initial appointments so that approximately one-fifth of the total number of members of the board shall be appointed for a term of one year, approximately one-fifth of the total number of members of the board shall be appointed for a term of two years, approximately one-fifth of the total number of members of the board shall be appointed for a term of three years, approximately one-fifth of the total number of members of the board shall be appointed for a term of four years, and approximately one-fifth of the total number of members of the board shall be appointed for a term of five years. As the term of each such initial appointee expires 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;
(b) Contract and be contracted with;
(c) Adopt, use and alter a common seal;
(d) Make and adopt all necessary, appropriate and lawful bylaws, rules and regulations pertaining to its affairs;
(e) Elect such officers, appoint such committees and agents and employ and fix the compensation of such employees and contractors as may be necessary for the conduct of the affairs and operations of the commission;
(f) (1) Acquire, purchase, own and hold any property, real, personal or mixed, and (2) acquire, equip, construct, maintain and operate public buildings, structures, projects and appurtenant facilities, of any type or types for which the governmental body or bodies creating such commission are permitted by law to expend public funds (all hereinafter referred to as facilities);
(g) Apply for, receive and use grants-in-aid, donations and contributions from any source or sources, including but not limited to the United States of America, or any agency thereof, and accept and use bequests, devises, gifts and donations from any source whatsoever;
(h) Sell, encumber or dispose of any property, real, personal or mixed;

(i) Issue negotiable bonds, notes, debentures, or other evidences of indebtedness and provide for the rights of the holders thereof, incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with exercising powers as provided herein;

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

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

(l) Lease its property or any part thereof, for public
purposes, to such persons and upon such terms as the
commission deems proper; and
(m) Do all things reasonable and necessary to carry
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 above the amount required for the maintenance, improvement and operation of its facilities and for meeting all required payments on its obligations, it shall set aside such a 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 and discharged in full, each commission 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 governmental bodies creating and establishing such commission in direct 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 of any taxes or fees to the state or any political subdivisions thereof and to any municipality therein. The
property of each commission shall be exempt from all
county and municipal taxes. Bonds, notes, debentures
and other evidences of indebtedness of each commission
are declared to be issued for a public purpose and to
be public instrumentalities, and, together with interest
thereon, shall be exempt from taxes.

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

Contributions may be made to each commission from
time to time by the governing body or bodies creating
and establishing it, and any other persons, firms or cor-
porations that may desire to do so. All funds received
by each commission shall be deposited in such bank or
banks as the board may determine and shall be withdrawn
therefrom in such manner as the board may direct. Each
commission shall keep strict account of all of its receipts
and expenditures and shall quarterly report to the
counties, municipalities, persons, firms or corporations
which have made contributions to it. Such report shall
contain an itemized account of the commission's receipts
and disbursements during the preceding quarter. Such
report shall be made within sixty days after the end
of the quarter. Within sixty days after the end of each fiscal year, the board shall make an annual report containing an itemized statement of its receipts and disbursements for the preceding year and publish the same as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area for such publication shall be each county in which the commission’s facilities are located. The books, records and accounts of each commission shall be subject to audit and examination by the state tax department of West Virginia and by other proper public officials or bodies in the manner provided by law.

§8-4C-9. Participation.

Any county or municipality is hereby authorized and empowered to transfer and convey to a commission which it has created and established either alone or with another governmental body, property of any kind, heretofore acquired by said county or municipality, to carry out the purposes of said commission.
§8-4C-10. Sale of property.

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

§8-4C-11. Workmen’s compensation.

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

§8-4C-12. Liberal construction.

1 The provisions of this article are hereby declared to be remedial and shall be liberally construed to effect the purposes hereof. The provisions of this article are in addition to and not in derogation of any power 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 Tempar
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. Howard Hughes
Clerk of the Senate

O.A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H.L. Sabau White
Speaker of the House of Delegates

The within approved this the 1st day of February, 1968.

Tillie C. Smith
Governor