WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1968

ENROLLED

SENATE BILL NO. 54

(By Mr. )  

PASSED

February 5, 1968

In Effect

 Filed in the Office

ROBERT D. DALEY
SECRETARY OF STATE

THIS DATE 2-16-68
AN ACT to amend and reenact sections one, three, four, six and seven, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of the state building commission.

Be it enacted by the Legislature of West Virginia:

That sections one, three, four, six and seven, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 6. STATE BUILDING COMMISSION.

§5-6-1. Name of state office building commission changed; composition, appointment, term and qualification of members; chairman and secretary; compensation and expenses; powers and duties generally.

"The state office building commission of West Virginia", heretofore created, shall continue in existence but on and after February nine, one thousand nine hundred sixty-six, shall be known and designated as "the state building commission of West Virginia" and shall continue as a body corporate and as an agency of the state of West Virginia. On and after the date aforesaid, the commission shall consist of the governor, and four additional members to be appointed by the governor by and with the advice and consent of the Senate. The terms of office for said members to be appointed by the governor shall be four years, except that the terms of office of the first four members so appointed by the governor shall be for one, two, three and four years respectively. No more than three of such members so appointed by the governor shall be members of the same political party, nor shall any of said members be members or employees of the executive,
legislative or judicial branches of government of West Virginia or any political subdivision thereof. The governor shall be chairman of the commission. The secretary of state shall be a member of the commission and serve as its secretary, but shall not have the right to vote upon matters before the commission. All members of the commission shall be citizens and residents of this state. The members of the commission shall be paid or reimbursed for their necessary expenses incurred under this article, but shall receive no compensation for their services as members or officers of the commission: Provided, however, That each member of the commission appointed by the governor shall, in addition to such reimbursement for necessary expenses receive a per diem of thirty-five dollars for each day or substantial portion thereof that he is engaged in the work of the commission. Such expenses and per diem shall be paid solely from funds provided under the authority of this article, and the commission shall not proceed to exercise or carry out any authority or power herein given it to bind said commission beyond the extent to which money has been provided under the
authority of this article. On or before the fifteenth day of each month, the commission shall prepare and transmit to the president and minority leader of the Senate and the speaker and the minority leader of the House of Delegates, a report covering the activities of the said commission for the preceding calendar month.

§5-6-3. Powers of commission.

1. The commission shall have power:

1. To sue and be sued, plead and be impleaded;

2. To have a seal and alter the same at pleasure;

3. To contract to acquire and to acquire, in the name of the commission or of the state, by purchase or otherwise, real property or rights or easements necessary or convenient for its corporate purposes and to exercise the power of eminent domain to accomplish such purposes;

4. To acquire, hold and dispose of personal property for its corporate purposes;

5. To make bylaws for the management and regulation of its affairs;

6. With the consent of the attorney general of the state of West Virginia to use the facilities of his office, assistants
and employees in all legal matters relating to or pertaining to the commission;

7. To appoint officers, agents and employees, and fix their compensation;

8. To make contracts, and to execute all instruments necessary or convenient to effectuate the intent of, and to exercise the powers granted to it by, this article;

9. To renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the commission that its interest will be best served;

10. To construct a building or buildings on real property, which it may acquire, or which may be owned by the state of West Virginia, in the city of Charleston, as convenient as may be to the capitol building, together with incidental approaches, structures and facilities, subject to such consent and approval of the city of Charleston in any case as may be necessary; and, in addition, to acquire or construct a warehouse, including office space therein, in Kanawha county for the West Virginia alcohol beverage control commissioner, and equip and furnish the same; and to acquire or construct buildings and
additions to buildings (and equip and furnish the same),
including remodeling, renovation and repair, as may be
required for the safety and care of patients, guests and
inmates at hospitals under the jurisdiction and super-
vision of the department of mental health and at insti-
tutions under the jurisdiction and supervision of the com-
missioner of public institutions; and to formulate and
program plans for the orderly and timely capital im-
provement of all of said hospitals and institutions and
the state capitol buildings; and to construct a building or
buildings in Kanawha county to be used as a general
headquarters by the department of public safety to ac-
commodate that department's executive staff, clerical
offices, technical services, supply facilities and dormitory
accommodations; and to establish one or more systems
or complexes of buildings and projects under control
of the commission and, subject to prior agreements with
holders of bonds previously issued, to change the same
from time to time, in order to facilitate the issuance and
sale of bonds of different series on a parity with each
other or having such priorities between series as the
commission may determine.
11. To maintain, construct and operate a project authorized hereunder;

12. To charge rentals for the use of all or any part of a project or building at any time financed, constructed, acquired or improved in whole or in part with the proceeds of sale of bonds issued pursuant to this article, subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

13. To issue negotiable bonds and to provide for the rights of the holders thereof;

14. To enter on any lands and premises for the purpose of making surveys, soundings and examinations;

15. To invest in United States government obligations, on a short term basis, any surplus funds which the commission may have on hand pending the completion of any project or projects.

16. To do all things necessary or convenient to carry out the powers given in this article.

The rights and powers set forth in subdivision ten of this section shall not be construed as in derogation of any rights and powers now vested in the West Virginia
§5-6-4. Deposit and disbursement of funds of commission; security for deposits; audits.

All moneys of the commission from whatever source derived shall be paid to the treasurer of the state of West Virginia, who shall not commingle said moneys with any other moneys, but shall deposit them in a separate bank account or accounts. The moneys in said accounts shall be impressed with and subject to the lien or liens thereon in favor of the bondholders provided in the proceedings for issuance of bonds pursuant to this article. The moneys in said accounts shall be paid out on check of the treasurer on requisition of the chairman of the commission, or of such other person as the commission may authorize to make such requisition. All deposits of such moneys shall, if required by the treasurer or the commission, be secured by obligations of the United States, of the state of West Virginia, or of the commission, of a market value equal at all times to the amount of the deposit, and all banking
institutions are authorized to give such security for such deposits. The state auditor and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other matters relating to its financial standing.

§5-6-6. Contracts with commission to be secured by bond and based on competitive bids.

The commission shall construct the project pursuant to a contract or contracts. Every such contract shall be secured by a bond meeting the requirements of section thirty-nine, article two, chapter thirty-eight of this code.

No contract or contracts for the construction, remodeling, renovation or repair of any building or buildings or any approaches, structures or facilities incidental thereto, or for the equipping and furnishing of any building or buildings, when the anticipated expenditure therefor will exceed the sum of two thousand dollars, shall be entered into except upon the basis of competitive sealed bids. Such bids shall be obtained by public notice soliciting such bids
published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which any such contract is to be performed. The publication shall be completed at least fourteen days prior to the final date for the submission of bids. The commission may in addition to such publication also solicit sealed bids by sending requests by mail to prospective bidders. The contract shall be awarded to the lowest responsible bidder, unless any and all bids are rejected, in which event new bids shall be sought by again publishing notice as aforesaid. Any bid, with the name of the bidder, shall be entered on a record and each record, with the successful bid indicated thereon, shall, after the award of any contract, be open to public inspection in the office of the secretary of the commission.

§5-6-7. Commission empowered to issue state building revenue bonds; form and requirements for bonds; procedure for issuance; temporary bonds; funds, grants and gifts.

The commission is hereby empowered to raise the cost of a project, as defined hereinabove, by the issuance of
state building revenue bonds of the state, the principal
of and interest on which bonds shall be payable solely
from the special fund herein provided for such payment.
Subject to the proceedings pursuant to which any bonds
outstanding were authorized and issued pursuant to this
article, the commission shall pledge the moneys in such
special fund, except such part of the proceeds of sale
of any bonds to be used to pay the cost of a project, for
the payment of the principal of and interest on bonds
issued pursuant to this article, such pledge to apply
equally and ratably to separate series of bonds or upon
such priorities as the commission shall determine. Such
bonds shall be authorized by resolution of the commis-
sion which shall recite an estimate by the commission
of such cost, and shall provide for the issuance of bonds
in an amount sufficient, when sold as hereinafter pro-
vided, to produce such cost, less the amount of any funds,
grant or grants, gift or gifts received, or in the opinion
of the commission expected to be received from the
United States of America or from any other source. The
acceptance by the commission of any and all such funds,
grants and gifts, whether in money or in land, labor or materials, is hereby expressly authorized. All such bonds shall have and are hereby declared to have all the qualities of negotiable instruments. Such bonds shall bear interest at not more than six percent per annum, payable semiannually, and shall mature in not more than twenty-five years from their date or dates, and may be made redeemable at the option of the state, to be exercised by the commission, at such price and under such terms and conditions as the commission may fix prior to the issuance of such bonds. The commission shall determine the form of such bonds, including coupons to be attached thereto to evidence the right of interest payments, which bonds shall be signed by the chairman and secretary of the commission, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of said chairman of the commission. In case any of the officers whose signatures appear on the bonds or coupons issued as hereinbefore authorized shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the
same as if they had remained in office until such delivery.

The commission shall fix the denominations of said bonds, the principal and interest of which shall be payable at the office of the treasurer of the state of West Virginia, at the capitol of said state, or, at option of the holder, at some bank or trust company in the city of New York to be named in the bonds in such medium as may be determined by the commission. The said bonds and interest thereon shall be exempt from taxation by the state of West Virginia, or any county or municipality therein. The commission may provide for the registration of such bonds in the name of the owner as to principal alone, and as to both principal and interest under such terms and conditions as the commission may determine, and shall sell such bonds in such manner as it may determine to be for the best interest of the state, taking into consideration the financial responsibility of the purchaser, and the terms and conditions of the purchase, and especially the availability of the proceeds of the bonds when required for payment of the cost of the project, such sale to be made at a price not lower than a
price which, computed upon standard tables of bond
values, will show a net return of not more than six per-
cent per annum to the purchaser upon the amount paid
therefor. The proceeds of such bonds shall be used solely
for the payment of the cost of the project for which bonds
were issued, and shall be deposited and checked out as
provided by section four of this article, and under such
further restrictions, if any, as the commission may pro-
vide. If the proceeds of bonds issued for a project shall
exceed the cost thereof, the surplus shall be paid into the
fund hereinafter provided for payment of the principal
and interest of such bonds. Such fund may be used for
the purchase of any of the outstanding bonds payable
from such fund at the market price, but at not exceeding
the price, if any, at which such bonds shall in the same
year be redeemable, and all bonds redeemed or purchased
shall forthwith be cancelled, and shall not again be issued.
Prior to the preparation of definitive bonds, the commis-
sion may, under like restrictions, issue temporary bonds
with or without coupons, exchangeable for definitive
bonds upon the issuance of the latter. Notwithstanding
the provisions of sections nine and ten, article six, chapter
twelve of this code, revenue bonds issued under the
authority herein granted shall be eligible as investments
for the workmen's compensation fund, teachers' retire-
ment fund, department of public safety death, disability
and retirement fund, West Virginia public employees'
retirement system and as security for the deposit of all
public funds. Such revenue bonds may be issued without
any other proceedings or the happenings of any other
conditions or things than those proceedings, conditions
and things which are specified and required by this ar-
ticle, or by the constitution of the state. The aggregate
amount of all issues of bonds outstanding at one time for
all projects authorized hereunder shall not exceed twenty-
seven million five hundred thousand dollars including the
renegotiation, reissuance or refinancing of any such bonds.
No bonds or other obligations shall be issued or incurred
hereunder, unless and until the Legislature by concurrent
resolution has approved the purpose and amount of each
separate project. No bonds or other obligations shall be
issued or incurred hereunder, unless and until the Legis-
lature by concurrent resolution has approved the purpose
and amount of each separate project.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tampa  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard Hayner  
Clerk of the Senate

O. F. Blackwell  
Clerk of the House of Delegates

Howard J. Carrow  
President of the Senate

J. Elwood White  
Speaker House of Delegates

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

Hullott C. Smith  
Governor
PRESENTED TO THE GOVERNOR

Date 2/12/68
Time 3:02 P.M.

RECEIVED
Feb 13 1 60 PM '63
OFFICE OF SECRETARY OF STATE
STATE OF WEST VIRGINIA