

WEST VIRGINIA LEGISLATURE


REGULAR SESSION, 1968

ENROLLED

SENATE BILL NO. 54

(By Mr. Moulton and Mr. Jackson)

PASSED February 8, 1968

In Effect Jan  Passage

#54

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

ENROLLED

Senate Bill No. 54

(By MR. MORELAND AND MR. JACKSON)

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

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.

1 “The state office building commission of West Virginia”,
2 heretofore created, shall continue in existence but on and
3 after February nine, one thousand nine hundred sixty-
4 six, shall be known and designated as “the state building
5 commission of West Virginia” and shall continue as a
6 body corporate and as an agency of the state of West
7 Virginia. On and after the date aforesaid, the commission
8 shall consist of the governor, and four additional members
9 to be appointed by the governor by and with the advice
10 and consent of the Senate. The terms of office for said
11 members to be appointed by the governor shall be four
12 years, except that the terms of office of the first four mem-
13 bers so appointed by the governor shall be for one, two,
14 three and four years respectively. No more than three
15 of such members so appointed by the governor shall be
16 members of the same political party, nor shall any of
17 said members be members or employees of the executive,

18 legislative or judicial branches of government of West
19 Virginia or any political subdivision thereof. The gov-
20 ernor shall be chairman of the commission. The secretary
21 of state shall be a member of the commission and serve
22 as its secretary, but shall not have the right to vote upon
23 matters before the commission. All members of the com-
24 mission shall be citizens and residents of this state. The
25 members of the commission shall be paid or reimbursed
26 for their necessary expenses incurred under this article,
27 but shall receive no compensation for their services as
28 members or officers of the commission: *Provided, how-*
29 *ever,* That each member of the commission appointed by
30 the governor shall, in addition to such reimbursement for
31 necessary expenses receive a per diem of thirty-five
32 dollars for each day or substantial portion thereof that he
33 is engaged in the work of the commission. Such expenses
34 and per diem shall be paid solely from funds provided
35 under the authority of this article, and the commission
36 shall not proceed to exercise or carry out any authority
37 or power herein given it to bind said commission beyond
38 the extent to which money has been provided under the

39 authority of this article. On or before the fifteenth day
40 of each month, the commission shall prepare and transmit
41 to the president and minority leader of the Senate and the
42 speaker and the minority leader of the House of Delegates,
43 a report covering the activities of the said commission
44 for the preceding calendar month.

§5-6-3. Powers of commission.

- 1 The commission shall have power:
 - 2 1. To sue and be sued, plead and be impleaded;
 - 3 2. To have a seal and alter the same at pleasure;
 - 4 3. To contract to acquire and to acquire, in the name
5 of the commission or of the state, by purchase or other-
6 wise, real property or rights or easements necessary or
7 convenient for its corporate purposes and to exercise the
8 power of eminent domain to accomplish such purposes;
 - 9 4. To acquire, hold and dispose of personal property
10 for its corporate purposes;
 - 11 5. To make bylaws for the management and regula-
12 tion of its affairs;
 - 13 6. With the consent of the attorney general of the state
14 of West Virginia to use the facilities of his office, assistants

15 and employees in all legal matters relating to or per-
16 taining to the commission;

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

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

22 9. To renegotiate all contracts entered into by it when-
23 ever, due to a change in situation, it appears to the com-
24 mission that its interest will be best served;

25 10. To construct a building or buildings on real prop-
26 erty, which it may acquire, or which may be owned by
27 the state of West Virginia, in the city of Charleston, as
28 convenient as may be to the capitol building, together
29 with incidental approaches, structures and facilities, sub-
30 ject to such consent and approval of the city of Charleston
31 in any case as may be necessary; and, in addition, to
32 acquire or construct a warehouse, including office space
33 therein, in Kanawha county for the West Virginia
34 alcohol beverage control commissioner, and equip and
35 furnish the same; and to acquire or construct buildings and

36 additions to buildings (and equip and furnish the same),
37 including remodeling, renovation and repair, as may be
38 required for the safety and care of patients, guests and
39 inmates at hospitals under the jurisdiction and super-
40 vision of the department of mental health and at insti-
41 tutions under the jurisdiction and supervision of the com-
42 missioner of public institutions; and to formulate and
43 program plans for the orderly and timely capital im-
44 provement of all of said hospitals and institutions and
45 the state capitol buildings; and to construct a building or
46 buildings in Kanawha county to be used as a general
47 headquarters by the department of public safety to ac-
48 commodate that department's executive staff, clerical
49 offices, technical services, supply facilities and dormitory
50 accommodations; and to establish one or more systems
51 or complexes of buildings and projects under control
52 of the commission and, subject to prior agreements with
53 holders of bonds previously issued, to change the same
54 from time to time, in order to facilitate the issuance and
55 sale of bonds of different series on a parity with each
56 other or having such priorities between series as the
57 commission may determine.*

58 11. To maintain, construct and operate a project au-
59 thorized hereunder;

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

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

68 14. To enter on any lands and premises for the pur-
69 pose of making surveys, soundings and examinations;

70 15. To invest in United States government obligations,
71 on a short term basis, any surplus funds which the com-
72 mission may have on hand pending the completion of
73 any project or projects.

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

76 The rights and powers set forth in subdivision ten of
77 this section shall not be construed as in derogation of
78 any rights and powers now vested in the West Virginia

79 alcohol beverage control commissioner, the department
80 of mental health or the commissioner of public institu-
81 tions.

**§5-6-4. Deposit and disbursement of funds of commission;
security for deposits; audits.**

1 All moneys of the commission from whatever source
2 derived shall be paid to the treasurer of the state of West
3 Virginia, who shall not commingle said moneys with any
4 other moneys, but shall deposit them in a separate bank ac-
5 count or accounts. The moneys in said accounts shall be im-
6 pressed with and subject to the lien or liens thereon in fa-
7 vor of the bondholders provided in the proceedings for is-
8 suance of bonds pursuant to this article. The moneys in said
9 accounts shall be paid out on check of the treasurer on
10 requisition of the chairman of the commission, or of such
11 other person as the commission may authorize to make
12 such requisition. All deposits of such moneys shall, if
13 required by the treasurer or the commission, be secured
14 by obligations of the United States, of the state of West
15 Virginia, or of the commission, of a market value equal
16 at all times to the amount of the deposit, and all banking

17 institutions are authorized to give such security for such
18 deposits. The state auditor and his legally authorized
19 representatives are hereby authorized and empowered
20 from time to time to examine the accounts and books of
21 the commission, including its receipts, disbursements,
22 contracts, leases, sinking funds, investments, and any
23 other matters relating to its financial standing.

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

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

5 No contract or contracts for the construction, remodel-
6 ing, renovation or repair of any building or buildings or
7 any approaches, structures or facilities incidental thereto,
8 or for the equipping and furnishing of any building or
9 buildings, when the anticipated expenditure therefor will
10 exceed the sum of two thousand dollars, shall be entered
11 into except upon the basis of competitive sealed bids. Such
12 bids shall be obtained by public notice soliciting such bids

13 published as a ^{lv}Class II legal advertisement in compliance
14 with the provisions of article three, chapter fifty-nine
15 of this code, and the publication area for such publication
16 shall be the county in which any such contract is to be
17 performed. The publication shall be completed at least
18 fourteen days prior to the final date for the submission of
19 bids. The commission may in addition to such publica-
20 tion also solicit sealed bids by sending requests by mail
21 to prospective bidders. The contract shall be awarded
22 to the lowest responsible bidder, unless any and all bids
23 are rejected, in which event new bids shall be sought by
24 again publishing notice as aforesaid. Any bid, with the
25 name of the bidder, shall be entered on a record and each
26 record, with the successful bid indicated thereon, shall,
27 after the award of any contract, be open to public in-
28 spection 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.**

1 The commission is hereby empowered to raise the cost
2 of a project, as defined hereinabove, by the issuance of


3 state building revenue bonds of the state, the principal
4 of and interest on which bonds shall be payable solely
5 from the special fund herein provided for such payment.
6 Subject to the proceedings pursuant to which any bonds
7 outstanding were authorized and issued pursuant to this
8 article, the commission shall pledge the moneys in such
9 special fund, except such part of the proceeds of sale
10 of any bonds to be used to pay the cost of a project, for
11 the payment of the principal of and interest on bonds
12 issued pursuant to this article, such pledge to apply
13 equally and ratably to separate series of bonds or upon
14 such priorities as the commission shall determine. Such
15 bonds shall be authorized by resolution of the commis-
16 sion which shall recite an estimate by the commission
17 of such cost, and shall provide for the issuance of bonds
18 in an amount sufficient, when sold as hereinafter pro-
19 vided, to produce such cost, less the amount of any funds,
20 grant or grants, gift or gifts received, or in the opinion
21 of the commission expected to be received from the
22 United States of America or from any other source. The
23 acceptance by the commission of any and all such funds,

24 grants and gifts, whether in money or in land, labor or
25 materials, is hereby expressly authorized. All such bonds
26 shall have and are hereby declared to have all the quali-
27 ties of negotiable instruments. Such bonds shall bear
28 interest at not more than six percent per annum, payable
29 semiannually, and shall mature in not more than twenty-
30 five years from their date or dates, and may be made re-
31 deemable at the option of the state, to be exercised by the
32 commission, at such price and under such terms and condi-
33 tions as the commission may fix prior to the issuance of
34 such bonds. The commission shall determine the form
35 of such bonds, including coupons to be attached thereto
36 to evidence the right of interest payments, which bonds
37 shall be signed by the chairman and secretary of the
38 commission, under the great seal of the state, attested
39 by the secretary of state, and the coupons attached
40 thereto shall bear the facsimile signature of said chair-
41 man of the commission. In case any of the officers whose
42 signatures appear on the bonds or coupons issued as
43 hereinbefore authorized shall cease to be such officers
44 before the delivery of such bonds, such signatures shall
45 nevertheless be valid and sufficient for all purposes the

46 same as if they had remained in office until such delivery.
47 The commission shall fix the denominations of said bonds,
48 the principal and interest of which shall be payable at
49 the office of the treasurer of the state of West Virginia,
50 at the capitol of said state, or, at option of the holder,
51 at some bank or trust company in the city of New York
52 to be named in the bonds in such medium as may be
53 determined by the commission. The said bonds and
54 interest thereon shall be exempt from taxation by the
55 state of West Virginia, or any county or municipality
56 therein. The commission may provide for the registra-
57 tion of such bonds in the name of the owner as to prin-
58 cipal alone, and as to both principal and interest under
59 such terms and conditions as the commission may de-
60 termine, and shall sell such bonds in such manner as it
61 may determine to be for the best interest of the state,
62 taking into consideration the financial responsibility of
63 the purchaser, and the terms and conditions of the pur-
64 chase, and especially the availability of the proceeds of
65 the bonds when required for payment of the cost of the
66 project, such sale to be made at a price not lower than a

67 price which, computed upon standard tables of bond
68 values, will show a net return of not more than six per-
69 cent per annum to the purchaser upon the amount paid
70 therefor. The proceeds of such bonds shall be used solely
71 for the payment of the cost of the project for which bonds
72 were issued, and shall be deposited and checked out as
73 provided by section four of this article, and under such
74 further restrictions, if any, as the commission may pro-
75 vide. If the proceeds of bonds issued for a project shall
76 exceed the cost thereof, the surplus shall be paid into the
77 fund hereinafter provided for payment of the principal
78 and interest of such bonds. Such fund may be used for
79 the purchase of any of the outstanding bonds payable
80 from such fund at the market price, but at not exceeding
81 the price, if any, at which such bonds shall in the same
82 year be redeemable, and all bonds redeemed or purchased
83 shall forthwith be cancelled, and shall not again be issued.
84 Prior to the preparation of definitive bonds, the commis-
85 sion may, under like restrictions, issue temporary bonds
86 with or without coupons, exchangeable for definitive
87 bonds upon the issuance of the latter. Notwithstanding
88 the provisions of sections nine and ten, article six, chapter

89 twelve of this code, revenue bonds issued under the
90 authority herein granted shall be eligible as investments
91 for the workmen's compensation fund, teachers' retire-
92 ment fund, department of public safety death, disability
93 and retirement fund, West Virginia public employees'
94 retirement system and as security for the deposit of all
95 public funds. Such revenue bonds may be issued without
96 any other proceedings or the happenings of any other
97 conditions or things than those proceedings, conditions
98 and things which are specified and required by this ar-
99 ticle, or by the constitution of the state. The aggregate
100 amount of all issues of bonds outstanding at one time for
101 all projects authorized hereunder shall not exceed twenty-
102 seven million five hundred thousand dollars including the
103 renegotiation, reissuance or refinancing of any such bonds.
104 No bonds or other obligations shall be issued or incurred
105 hereunder, unless and until the Legislature by concurrent
106 resolution has approved the purpose and amount of each
107 separate project. ~~No bonds or other obligations shall be~~
108 ~~issued or incurred hereunder, unless and until the Legis-~~
109 ~~lature by concurrent resolution has approved the purpose~~
110 ~~and amount of each separate project.~~



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

William Tompa
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Samuel H. Hays
Clerk of the Senate

Ch. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H. Lehan White
Speaker House of Delegates

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

Huey C. Smith
Governor



PRESENTED TO THE
GOVERNOR

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

RECEIVED

FEB 13 1 09 PM '68

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA