WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED

HOUSE BILL No. 676

PASSED 1969

In Effect July 1, 1969

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
TH.S DATE 3-12-69
AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten-e, relating to requiring all public buildings and facilities constructed with public funds to be accessible to and usable by the physically handicapped; creating the state board of public buildings; authorizing rules and regulations; providing for enforcement by the director of the division of vocational rehabilitation and the state board of public buildings; authorizing judicial action; and providing a severability clause.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10E. HANDICAPPED PERSONS AND PUBLIC BUILDINGS AND FACILITIES.

§18-10E-1. Purpose.

1 It is hereby declared to be the public policy of this state that all public buildings and facilities covered by this article, as specified in section two of this article, be accessible to and functional for the physically handicapped, without loss of function, space or facilities so far as the general public is concerned.

§18-10E-2. Application of article.

1 (a) The provisions of this article and the reasonable rules and regulations promulgated hereunder shall apply to all temporary, emergency or permanent buildings and facilities used by the public which are constructed after the effective date of this article in whole or in part by
the use of state, county or municipal funds or the funds
of any other political subdivision of this state, except
as hereinafter provided.
(b) Notwithstanding the provisions of subsection (a)
of this section, the provisions of this article and the
reasonable rules and regulations promulgated hereunder
shall also be applicable to all buildings and facilities
used by the public and which are under construction
on the effective date of this article by the use in whole
or in part of state, county or municipal funds or the
funds of any other political subdivision of this state,
unless the governmental authorities responsible for the
construction shall determine that the construction has
reached a state where compliance is impractical.
§18-10E-3. Rules and regulations.
1 In order to implement the provisions of this article,
2 the director of the division of vocational rehabilitation
3 of the state board of education, with the approval of the
4 state board of public buildings hereinafter created, shall
5 promulgate reasonable rules and regulations. The director
6 and the board, in promulgating and approving such
reasonable rules and regulations, shall take into account
the following:

(1) Use of buildings and facilities by persons confined
to wheelchairs, persons using crutches or other walking
aids, persons afflicted by sight or hearing loss, persons
disabled by age, and any other persons whose mobility
is limited; and data shall be gathered to determine the
needs of any such persons;

(2) Frequency of use by disabled persons as above
enumerated; and

(3) Additional construction cost required to comply
with the provisions of this article and such reasonable
rules and regulations.

The director shall have the authority to except build-
ings and facilities from the provisions of this article and
such reasonable rules and regulations, in whole or in
part, if, in his opinion, compliance therewith would
create a financial hardship, be impractical or serve no
benefit.

All such reasonable rules and regulations shall be
promulgated in accordance with the provisions of article
three, chapter twenty-nine-a of this code, and shall include, but not be limited to, provisions pertaining to the following:

(1) Reservation of parking spaces for the disabled, where possible;
(2) Construction of exterior walkways and ramps;
(3) Design and construction of doorways;
(4) Design and construction of interior floors, steps, ramps, and doorways;
(5) Design of and accessibility to elevators;
(6) Design and construction of toilet facilities for use by the disabled;
(7) Design and location of public telephones, water fountains and other conveniences to facilitate their use by the disabled; and
(8) Accessibility of at least one primary entrance to individuals in wheelchairs.

§18-10E-4. State board of public buildings; expenses.

There is hereby created the state board of public buildings which shall consist of five members appointed by the governor, one member to be a representative of the state
building commission, one member to be a representative
of a municipality, one member to be a representative
of a county court, one member to be a representative
of the state board of education, and one member to be
an architect. Each member shall serve at the will and
pleasure of the governor. The members of the board
shall receive no compensation for their services on such
board, but they shall be reimbursed for all reasonable
and necessary expenses actually incurred in the perform-
ance of their duties as members of the board.

§18-10E-5. Enforcement.

It shall be the duty of the director to enforce the
provisions of this article and all reasonable rules and
regulations promulgated hereunder, and it shall be the
duty of the state, any county, municipality or other
political subdivision thereof, or any department, agency,
commission, board or bureau thereof, responsible for the
construction of any public building or facility to comply
with the provisions of this article and all such reasonable
rules and regulations. Whenever the director ascertains
that any such public building or facility is about to be
constructed or is under construction (which construction began after the effective date of this article) in violation of the provisions of this article or any such reasonable rules and regulations, he may petition the circuit court of the county wherein the construction is to be or is taking place for an order to compel compliance with the provisions of this article and such reasonable rules and regulations, and the court may compel compliance unless such court finds that compliance would create a financial hardship, be impractical or serve no benefit.

§18-10E-6. Severability.

If any provision of this article or the application thereof to any person or circumstances is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tampar
Chairman Senate Committee

Clayton E. Davidson
Chairman House Committee

Originated in the House.

Takes effect July 1, 1969.

G. Howard Maxwell
Clerk of the Senate

O.A. Blankenship
Clerk of the House of Delegates

Lloyd B. Johnson
President of the Senate

Jim F. Davis
Speaker House of Delegates

The within... approved this the 17th day of
March, 1969.

Arch R. Johnson
Governor
PRESENTED TO THE GOVERNOR

Date 3/12/69
Time 2:45 p.m.