WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED
SENATE BILL NO. 207

(By Mr. ________________)

PASSED MARCH 7, 1972

In Effect FROM Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-28-72
AN ACT to amend and reenact section fifteen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact article one, chapter twenty-nine of said code, all relating to historic preservation; natural resources; organization and administration; the public land corporation; department of archives and history; short title; legislative findings; department of archives and history created; office of state historian and archivist; powers and duties; organization and advisory commissions established; and providing for the delivery of official books to the archivist for their preservation.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article one, chapter twenty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.


1 The public land corporation of West Virginia, heretofore created and established, shall be continued as an activity of the department of natural resources. The corporation may sue and be sued, contract and be contracted with, plead and be impleaded, and have and use a common seal. It shall be a public benefit corporation composed of the governor as chairman, the director of the department of natural resources as secretary, the commissioner
of agriculture, the attorney general, the director of the engineering experiment station at West Virginia University and the state historian and archivist, none of whom shall receive additional compensation as members of the corporation.

The corporation shall be vested with the title of the state in public land, the title to which now is or may hereafter become absolutely vested in the state of West Virginia by reason of any law governing the title of lands within the state, except such public lands of the state as may be by law specifically allocated to and used by other state agencies, institutions and departments.

The corporation is hereby authorized and empowered to:

(1) Acquire from any persons or the state commissioner of forfeited lands, by purchase, lease or other agreement, any lands necessary and required for public use;

(2) Acquire by purchase, condemnation, lease, or agreement, receive by gifts and devises, or exchange, rights-of-way, easements, waters and minerals suitable for public use;

(3) Sell, purchase or exchange lands or stumpage for the purpose of consolidating lands under state or federal government administration;

(4) Negotiate and effect loans or grants from the government of the United States or any agency thereof for acquisition and development of such lands as may be authorized by law to be acquired for public use;

(5) Expend the income from the use and development of public lands for the purpose of liquidating obligations incurred in the acquisition, development and administration of such lands, until all such obligations have been fully discharged, and thereafter pay such income into the state fund for general revenue purposes and uses;

(6) Expend the income from the use and development of public lands for the purchase, development, restoration, and preservation for public use, of sites, structures, objects and documents of prehistoric, historical, archeolog-
(7) Expend the income from the use and development of public lands for the purpose of obtaining grants or matching moneys available from the government of the United States or any of its instrumentalities for prehistoric, historic, archeological, architectural and cultural purposes.

The corporation shall have the authority to designate lands to which it has title for development and administration for the public use including forestation, recreation, wildlife, stock grazing, agricultural rehabilitation and homesteading or other conservation activities and may contract or lease for the proper development of oil, gas or minerals, except that no contract or lease may be entered into for the extraction and removal by stripping or auger mining of coal, and water rights within or upon the lands or property under its control. It shall convey, assign, or allot lands to the title or custody of proper departments or other agencies of state government for administration and control within the functions of such departments or other agencies as provided by law. The corporation shall make proper lands available for the purpose of cooperating with the government of the United States in the relief of unemployment and hardship or for any other public purpose. The corporation shall report annually to the Legislature on its public land holdings, its financial condition and its operations and shall make such recommendations to the Legislature as deemed proper concerning the acquisition, development, disposition and use of public lands.

During the continuance of the Blennerhassett historical commission, the public land corporation and its members shall consult with and keep the said Blennerhassett historical commission fully informed as to any official action to be taken or proposed to be taken pursuant to this act regarding or affecting Blennerhassett island and its prehistoric, historic, archeological, architectural, cultural and recreational significance or development or any of the powers and duties of the Blennerhassett historical commission.
CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. DEPARTMENT OF ARCHIVES AND HISTORY.

§29-1-1. Short title.
1 This article shall be known and may be cited as the
2 “West Virginia Historic Preservation Act of 1972.”

§29-1-2. Legislative findings.
1 That the state of West Virginia, being possessed of a
2 heritage that is both ancient and honorable, should
3 undertake a program of systematically identifying, re-
4 storing, preserving, protecting and developing those sites,
5 structures, documents and objects which are of a
6 prehistoric, historical, archeological, architectural and
7 cultural significance by reason of their association with
8 the heritage of the state of West Virginia from the earliest
9 times of the reorganized government of Virginia or of
10 the dominion or colony of Virginia as related to the area
11 which comprises the state of West Virginia, for the public
12 use and to serve as a constant reminder of a past
13 that is rich in history and as a source of inspiration for
14 the future. It is the purpose of this article to provide
15 for a coordinated and comprehensive approach to the
16 preservation of the cultural, scientific and historic heri-
17 tage of the state of West Virginia.

§29-1-3. Department of archives and history created; office of
state historian and archivist.
1 A department of archives and history and the office
2 of state historian and archivist are hereby created and
3 established.
4 The state historian and archivist shall be appointed by
5 the governor, with the advice and consent of the Senate,
6 for a term of four years and shall be the chief executive
7 officer of the department.

§29-1-4. Powers and duties.
1 The department of archives and history and the state
2 historian and archivist shall have the following powers
3 and duties:
4 (1) Locate, identify, excavate, preserve, protect, re-
store, acquire and recommend for acquisition to the public
land corporation; prehistoric, historic, archeological,
architectural and cultural sites, structures, documents and
objects worthy of preservation;

(2) To survey, investigate and register such prehistoric, historic, archeological, architectural and cultural
sites, structures, documents and objects either upon its
own initiative or in cooperation with the West Virginia
antiquities commission, reputable societies, organization
or agencies of the state and federal government;

(3) To operate and maintain a state library and to
collect for permanent preservation therein all valuable
papers and documents relating to the state of West Vir-
ginia, and the territory included therein from the earliest
times, together with all public records, state papers, docu-
ments of the Legislature, executive and judicial depart-
ments, and the reports all of state officials, boards and
directors, of state institutions, educational, charitable,
penal and otherwise, from the twentieth of June, eighteen
hundred and sixty-three, to which the annual additions
shall be added as produced;

(4) To preserve and protect the battle flags and regi-
mented flags borne by West Virginians in war;

(5) To submit to the governor and the Legislature an
annual report of its activities and needs, including a list-
ing of all the state's papers, public documents, books,
pamphlets and other property belonging to the state;

(6) To mark by proper monument, tablets or markers,
prehistoric, historic, archeological, architectural, scenic
or geological sites within the state and to arrange for the
purchase, replacement, care of and maintenance of such
monuments, tablets or markers and formulate and pre-
pare appropriate copy for them to protect, preserve and
display the Fairfax stones;

(7) To transmit to the department of finance and ad-
ministration for publication or republication matters of
prehistorical, historical, archeological, architectural or
cultural interest, to cooperate with said department in
compiling, printing and distributing such publications,
and to sell publications, postcards and other souvenirs
of a prehistorical, historical, archeological, architectural
or cultural nature at the state museum and at prehistori-
cal, historical, archeological, architectural or cultural
properties administered by the department and to devote
the revenue arising therefrom to the work of the de-
partment;
(8) To enter into agreements with responsible private
historical, archeological, architectural or cultural associ-
ations, foundations and similar organizations or with the
National Park Service, or with state agencies, for carry-
ing on services or programs, or for the purpose of raising
moneys in order to further improve and develop pre-
historical, historical, archeological, architectural or cul-
tural properties, museums, publications and other func-
tions of the department: Provided, That said agreements
shall be approved by the governor;
(9) With the advice and consent of the governor to
accept, receive and expend gifts, donations, contributions,
endowments, bequests or devises or money, security, or
property, both real and personal, or any interest therein
and to accept, receive and administer the same subject to
any terms, limitations or restrictions placed thereon by
the donor;
(10) To cooperate with agencies and instrumentalities
of the United States of America and to cooperate with and
advise the public land corporation in the purchase, de-
velopment, restoration and preservation for public use, of
sites, structures, objects and documents of prehistoric, his-
torical, archeological, architectural and cultural signifi-
cance to the state of West Virginia;
(11) To apply for and accept any grants or other
moneys available for the purpose of this article from the
federal government or any of its departments, agencies
or instrumentalities;
(12) To maintain an office in the state capitol, city of
Charleston;
(13) To have and use an official seal for use in official
business;
(14) To dispose of real and personal property which
does not have sufficient prehistoric, historic, archeological,
architectural or cultural value to justify its retention:

Provided, however, That such disposals shall not be made
without the consent of the governor or of an advisory
commission appointed by him pursuant to section six of
this article;

(15) To make agreements with the executive depart-
ment and state boards, commissions, and agencies, for the
provision of state papers to the department and to such
state institutions of higher learning as request them;

(16) To make reasonable rules and regulations govern-
ing the public use of its facilities and library;

(17) To edit and publish a quarterly historical maga-
zine devoted to the history, biography, bibliography, and
genealogy of West Virginia.

During the continuance of the Blennerhassett historical
commission, the department of archives and history and
the state historian and archivist shall consult with and
keep the said Blennerhassett historical commission fully
informed as to any official action to be taken or proposed
to be taken pursuant to this act regarding or affecting
Blennerhassett island and its prehistoric, historic, arche-
ological, architectural, cultural and recreational signifi-
cance or development or any of the powers and duties
of the Blennerhassett historical commission.

§29-1-5. Organization.

1. The department of archives and history shall be com-
posed of such administrative divisions as the state his-
torian and archivist shall deem necessary and proper for
effectuating the purposes of this article.

§29-1-6. Advisory commissions established.

1. In consultation with the state historian and archivist,
the governor may establish and appoint such advisory
commissions as are necessary and proper for carrying out
the purposes of this article. All members of such com-
misions shall serve without remuneration, but may be
reimbursed for any and all reasonable and necessary ex-
panse incurred in the performance of their duties: Pro-
vided, That unless the Blennerhassett historical commis-
sion has ceased to exist, no such advisory commission
§29-1-7. Delivery to state historian and archivist of official books, records and documents not in current use; prima facie evidence.

Any state, county or other official may turn over to the state historian and archivist, with his consent, for permanent preservation and record in the state department of archives and history, any official books, records, documents, original papers, or files, not in current use in his office, taking a receipt therefor: Provided, That such official shall first make and keep on record in his official files a certified copy of such book, record, document, original paper, or file. Such official may in like manner turn over to the state historian and archivist, with his consent, for the use of the state, any printed books, records, documents or reports not in current use in his office. Nothing herein, however, shall be construed to allow the removal of any books or records affecting the title to any estate within the jurisdiction of the official having custody of such records. The state historian and archivist shall embody in his report to the governor a general list of all such books, records, documents or papers so received; and upon the request of any person entitled thereto shall furnish a certified copy of any such record, document, paper, or extract therefrom, and such certified copy shall be entitled to the same weight as evidence as though certified by the official by whom such record, document, or paper was deposited with the state historian and archivist.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 16th day of March, 1972.

Governor
PRESENTED TO THE GOVERNOR

Date 3/16/72
Time 2:10 p.m.