WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

ENROLLED
SENATE BILL NO. 567
(Originating in Committee on Finance)

PASSED March 7, 1975
In Effect from Passage
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(Originating in the Committee on Finance)

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AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eight, relating to the creation of the Blennerhassett historical park commission as a public corporation within the executive branch of government; authorizing said commission to engage in certain activities and exercise certain powers for the development of Blennerhassett island and related locations in the county of Wood into an educational, cultural and recreational attraction so as to enhance said island and related locations as a significant historical, natural and archaeological resource for the state and the nation; giving certain legislative findings; relating to the composition of said commission and the terms, reimbursement and meetings of its members; empowering said commission to enter into agreements with private and certain out-of-state persons, firms, corporations and agencies; relating to certain powers, duties and responsibilities of said commission; giving certain local governmental agencies authority to assist said commission; requiring a certain cooperation; authorizing said commission to issue and sell revenue bonds not exceeding a certain principal amount for specific purposes and specifying the procedures therefor and the manner thereof; relating to certain trust agreements for holders of bonds and a certain sinking fund for payment of bonds; requiring that a certain credit of the state not be pledged; and relating to exempting said revenue bonds from taxation.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 8. BLENNERHASSETT HISTORICAL PARK COMMISSION.

§29-8-1. Legislative findings.

1 The Legislature hereby finds and declares that:
2 (1) Blennerhassett island, situate in the Ohio river near the city of Parkersburg, is a significant historical, natural and archaeological resource of importance to this state and the nation;
3 (2) A well-planned and executed program for the development of educational, cultural and recreational attractions related to events known and believed to have occurred on and near scenic Blennerhassett island will be of great benefit to all the people of this state and constitutes a most worthy public undertaking;
4 (3) The primary responsibility for the planning and execution of such a program rests upon the state of West Virginia, while the secondary responsibility for development rests upon private and other public resources; and
5 (4) The best and most feasible means of accomplishing the foregoing is by the establishment and maintenance of the Blennerhassett historical park commission.

§29-8-2. Blennerhassett historical park commission established; public members; government members; terms; meeting; quorum; compensation; expenses.

1 There is hereby established within the executive branch of government the “Blennerhassett historical park commission” (hereafter in this article referred to as the “commission”). The commission shall be composed of ten public members and may have, in addition, not more than five government members. The ten public members shall be citizens and residents of this state, appointed by the governor, with the advice and consent of the Senate, for overlapping terms of four years, except
that three of the original appointments shall be for terms
of one year, three of the original appointments shall be
for terms of two years, three of the original appoint-
ments shall be for terms of three years and one of the
original appointments shall be for a term of four years.
The governor shall make his initial appointments of
citizen members within forty days after this section takes
effect.

Each public member shall be qualified to carry out the
functions of the commission under this article by reason
of his special interest, training, education or experience.
No person shall be eligible to appointment as a public
member who is an officer or member of any political
party executive committee; the holder of any other pub-
lic office or public employment under the United States
government or the government of this state or a political
subdivision of this state; or an employee of the com-
mission. Not more than six public members shall belong
to the same political party, and not more than three
public members shall be citizens and residents of the
county of Wood.

The governor may, in his discretion, appoint from
among the department heads serving within the execu-
tive branch of government not more than five govern-
ment members to serve as ex officio members of the
commission.

At its first meeting, which shall be held within fifty
days after this section takes effect, the commission shall
elect from among its public members a chairman, who
shall preside over its meetings until the second Monday
in September of the next year. Thereafter, the commis-
sion shall elect a chairman from among its public mem-
ers on the second Monday in September of each year.

All public members shall be eligible for reappointment
once by the governor. A public member shall, unless
sooner removed, continue to serve until his term expires
and his successor has been appointed and has qualified.
A vacancy caused by the death, resignation or removal
of a public member prior to the expiration of his term
shall be filled only for the remainder of such term.
For the purpose of carrying out its powers, duties and responsibilities under this article, six members of the commission shall constitute a quorum for the transaction of business so long as at least five members constituting the quorum are public members. Each public member and each government member shall be entitled to one vote. The commission shall meet at a time and place designated by the chairman at least four times each fiscal year. Additional meetings may be held when called by the chairman or when requested by five members of the commission or by the governor. All meetings of the commission shall be open to the public. Each member shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties under this article.

§29-8-3. General powers of Blennerhassett historical park commission as public corporation.

The commission shall be a public corporation and, as such, may:

1. Contract and be contracted with;
2. Plead and be impleaded;
3. Sue and be sued;
4. Have and use a common seal;
5. Make bylaws for the management and regulation of its affairs and activities;
6. Acquire real and personal property by purchase or lease;
7. Establish and maintain an office in the county of Wood;
8. Exercise its corporate powers in the state of Ohio to the extent permitted by the laws of the state of Ohio;
9. Employ and fix the compensation of such personnel as it considers necessary or expedient;
10. Accept and use gifts, grants and any other resources or funds made available to it from any source, whether public or private;
11. Cooperate with the public land corporation and, with its permission, use property belonging to the public land corporation;
(12) Enter into any agreement with the state of Ohio
or any person, firm or corporation therein for the provi-
sion of electricity, water, sewer and such similar services
to Blennerhassett island as are necessary;

(13) Own or operate, or both, by itself or in con-
junction with any other public agency or any private
person, firm or corporation, such facilities and equip-
ment as it considers necessary or convenient for the im-
plementation of its duties under this article. Without
limiting the generality of the foregoing, such facilities
and equipment may include boats, docks, an amphitheat-
tre, parking facilities, the reconstructed Blenner-
hassett mansion and other buildings;

(14) Cooperate fully with all persons, organizations
and agencies, whether public or private, to the extent
necessary or expedient to accomplish the duties imposed
upon it by this article;

(15) Fix, revise from time to time, charge and collect
fees for its acts and undertakings;

(16) In accordance with other pertinent provisions of
this article, finance undertakings in whole or in part by
the issuance and sale of revenue bonds; and

(17) Promulgate rules and regulations, in accordance
with the provisions of chapter twenty-nine-a of this code,
to implement and make effective the powers and duties
vested in it by the provisions of this article and take such
other steps as may, in its discretion, be necessary or
expedient for the proper and effective development of
Blennerhassett island and related locations in the county
of Wood into a major educational, cultural and recrea-
tional attraction.

§29-8-4. Duties of Blennerhassett historical park commission
with respect to the development of Blennerhassett island.

1 Within the limit of funds available from this state,
2 the United States and any other source, whether public
3 or private, the commission shall:

4 (1) Conduct a comprehensive investigation to deter-
5 mine those educational, cultural and recreational attrac-
tions which should be developed in this state concerning events known or believed to have occurred on and near Blennerhassett island, the economic feasibility of such attractions, needed capital investment, available or contemplated resources therefor, appropriate locations and accessibility thereto and such other related matters as the commission considers pertinent. The commission shall use the information developed by the Blennerhassett historical commission, provided for in article six, chapter four of this code, as the starting point for this investigation;

(2) Plan and execute a program for the development of educational, cultural and recreational attractions related to events known or believed to have occurred on and near Blennerhassett island;

(3) Plan and execute a program for the development of Blennerhassett island and related locations in the county of Wood so as to preserve and enhance the island and related locations as a significant historical, natural and archaeological resource of importance to this state and the nation;

(4) As soon as practicable after the first day of July of each year, submit an annual report to the governor and the Legislature on its affairs and activities during the preceding fiscal year; and

(5) Make such written reports to the Blennerhassett historical commission and the joint committee on government and finance as the commission considers advisable or as the Blennerhassett historical commission or the joint committee requests.

In carrying out its duties under subdivisions (2) and (3) of this section, the commission shall, as near as practicable, adhere to the recommendations and plans for development contained in the documents prepared for the Blennerhassett historical commission, submitted to it on the eighteenth day of February, one thousand nine hundred seventy-five, and titled as follows: (a) Summary report for the development of Blennerhassett island, (b) physical masterplan, (c) interpretive masterplan, (d) environmental impact and (e) market and economic impact.
§29-8-5. Cooperation of state agencies and local government with Blennerhassett historical park commission; powers of local government with respect to development.

(a) All other state and local governmental personnel and agencies shall cooperate to the fullest possible extent with the commission to accomplish the proper and effective development of Blennerhassett island and related locations in the county of Wood into a major educational, cultural and recreational attraction.

(b) The county of Wood, the city of Parkersburg, any other municipality in the county and any board, commission, authority, agency or other office created under authority thereof may, in its discretion engage in any activity or undertaking designed to assist the commission in the proper and effective development of Blennerhassett island and related locations in the county of Wood into a major educational, cultural and recreational attraction.

§29-8-6. Authority of Blennerhassett historical park commission for issuance and sale of revenue bonds; what constitutes undertaking.

For the purpose of developing Blennerhassett island and related locations in the county of Wood into a major educational, cultural and recreational attraction, the commission may issue and sell revenue bonds not to exceed four million dollars in principal amount, in the manner provided for hereafter in this article, to finance in whole or in part any of the following undertakings:

(1) The acquisition of land or any right or interest therein;

(2) The construction or acquisition of a new building;

(3) The construction of an amphitheatre, parking facilities, docking facilities and such other facilities and structures as the commission considers necessary;

(4) The renovation or construction of an addition to any existing building or other structure;

(5) The acquisition of furnishings and equipment for any such new or existing building, facility or other structure; and
The construction or acquisition of any other capital improvement or capital facility. This authority includes the construction or acquisition of any road, utility or other property, real or personal, and any other undertaking, including site improvement and landscaping, that is necessary, appurtenant or incidental thereto.

§29-8-7. Issuance of revenue bonds.

The issuance of bonds under the provisions of this article shall be authorized by a resolution of the commission. The resolution shall recite an estimate by the commission of the cost of the proposed building or structure, improvements and land and shall provide for the issuance of bonds in an amount sufficient, when sold as hereinafter provided, to provide moneys sufficient to pay such cost, less the amount of any other funds available for the construction or acquisition of the building or structure, improvements and land from any appropriation, grant, gift or contribution therefor. The resolution shall prescribe the rights and duties of the bondholders and the commission. For such purpose, it may prescribe the form of the trust agreement provided for in section eight of this article. The bonds shall be of such series; bear such date or dates; mature at such time or times not exceeding thirty years from their respective dates; bear interest at such rate or rates, payable semiannually; be in such denominations; be in such form, either coupon or fully registered without coupons, carrying such registration as to principal only; be payable in such medium of payment and at such place or places; be subject to such terms of redemption at such prices; and be entitled to such priorities as are provided in the resolution authorizing the issuance of the bonds or in any trust agreement made in connection therewith. The bonds shall be signed by the governor and by the chairman of the commission, under the great seal of the state, attested by the secretary of state. The coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any of the officers whose signatures appear on the bonds or coupons cease to be such officers before the delivery of such bonds, the signatures shall remain valid.
for all purposes the same as if such officers had remained in office until the delivery.

The commission must offer the bonds for competitive bids from recognized financial investment institutions before the bonds may be sold. The bonds shall be sold in such manner as the commission determines, taking into consideration the financial responsibility of the purchaser, 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 building or structure, improvements and land, such sale to be made at a price not lower than a price which, when computed upon standard tables of bond values, will show a net return of not more than eight percent a year to the purchaser upon the amount paid therefor. The proceeds of the bonds shall be used solely for the payment of the cost of the building or structure, improvements and land and shall be deposited in the state treasury in a special fund and checked out as provided by law for the disbursement of other state funds. If the proceeds of such bonds, by error in calculation or otherwise, together with any other funds used therefor, as hereinbefore in this article authorized are less than the cost of the building or structure, improvements and land, additional bonds may in like manner be issued to provide the amount of the deficiency, but in no case shall they exceed the total amount of bonds authorized in section six of this article less the amount of any other funds used therefor; and, unless otherwise provided for in the resolution or trust agreement, they shall be considered to be of the same issue and be entitled to payment from the same fund, without preference or priority, as the bonds issued before for the building or structure, improvements and land. If the proceeds of bonds issued for the building or structure, improvements and land, together with the amount of any other funds used therefor, exceeds the cost thereof, the surplus shall be paid into the sinking fund or reserve fund to be established for payment of the principal and interest of the bonds. Before the preparation of definitive bonds, the commission may, under like restrictions, issue temporary bonds with or without coupons, exchangeable for definitive bonds upon their issuance.
The bonds issued under the provisions of this article shall be and have all the qualities of negotiable instruments under the provisions of chapter forty-six of this code.

§29-8-8. Trust agreement for holders of bonds.

The commission may enter into an agreement with any trust company or with any bank having the powers of a trust company, either within or outside this state, as trustee for the holders of bonds issued under the provisions of this article, setting forth therein such duties of the commission with respect to the payment of the bonds; the acquisition, construction, improvement, maintenance, operation, repair and insurance of the building or structure, improvements and land; the conservation and application of all moneys; the security for moneys on hand or on deposit; and the rights and remedies of the trustee and the holders of the bonds as are agreed upon with the original purchasers of the bonds; and including therein provisions restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds and debentures of corporations; protecting and enforcing the rights and remedies of the trustee and the bondholders; and providing for approval by the original purchasers of the bonds of the appointment of consulting engineers and of the security given by those who contract to construct the building, structure or improvement and for approval by the consulting engineers of all contracts for construction. Any such agreement entered into by the commission shall be binding in all respects on the commission and its successors in accordance with its terms. Any provision of any such agreement shall be enforceable by an appropriate proceeding at law.

§29-8-9. Sinking fund for payment of bonds.

The commission shall make periodic payments to the state sinking fund commission in an amount sufficient to meet the requirements of any issue of bonds sold under the provisions of this article, as specified in the resolution of the commission authorizing the issue and in any trust agreement entered into in connection therewith. The payments so made shall be placed by the state sinking fund
commission in a special sinking fund which shall be pledged to and charged with the payment of the principal of the bonds of such issue and the interest thereon and to the redemption or repurchase of such bonds, such sinking fund to be a fund for all bonds of such issue without distinction or priority of one over another. The moneys in the special sinking fund, less such reserve for payment of principal and interest as is required by the resolution of the commission authorizing the issue and any trust agreement made in connection therewith, may be used for the redemption of any outstanding bonds payable from such fund which by their terms are then redeemable or for the purchase of bonds at the market price, but at not exceeding the price, if any, at which such bonds will be redeemable on the next ensuing date upon which they are redeemable prior to maturity. All bonds so redeemed or purchased shall immediately be canceled and shall not again be issued.

§29-8-10. Credit of state not pledged; bonds exempt from taxation.

The provisions of this article relating to revenue bonds shall not under any circumstances be construed to authorize the commission at any time or in any manner to pledge the credit or taxing power of the state. The revenue bond obligations or debts created by the commission under the provisions of this article shall not under any circumstances be considered obligations of the state. All bonds issued by the commission under the provisions of this article shall be exempt from taxation by this state and any county, school district, municipality or other subdivision thereof.
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.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ___________________________ day of ___________________________, 1975.

______________________________
Governor
PRESENTED TO THE
GOVERNOR

date 3/18/75

time 4:55 p.m.