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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975

ENROLLED

SENATE BILL NO. 567

(Originating in Committee on Finance)

PASSED March 7, 1975

In Effect From Passage



361

ENROLLED

Senate Bill No. 567

(Originating in the Committee on Finance)

[Passed March 7, 1975; in effect from passage.]

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
3 near the city of Parkersburg, is a significant historical,
4 natural and archaeological resource of importance to this
5 state and the nation;

6 (2) A well-planned and executed program for the de-
7 velopment of educational, cultural and recreational at-
8 tractions related to events known and believed to have
9 occurred on and near scenic Blennerhassett island will
10 be of great benefit to all the people of this state and con-
11 stitutes a most worthy public undertaking;

12 (3) The primary responsibility for the planning and
13 execution of such a program rests upon the state of West
14 Virginia, while the secondary responsibility for develop-
15 ment rests upon private and other public resources; and

16 (4) The best and most feasible means of accomplish-
17 ing the foregoing is by the establishment and mainte-
18 nance 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
2 branch of government the "Blennerhassett historical
3 park commission" (hereafter in this article referred to
4 as the "commission"). The commission shall be com-
5 posed of ten public members and may have, in addition,
6 not more than five government members. The ten pub-
7 lic members shall be citizens and residents of this state,
8 appointed by the governor, with the advice and consent
9 of the Senate, for overlapping terms of four years, except

10 that three of the original appointments shall be for terms
11 of one year, three of the original appointments shall be
12 for terms of two years, three of the original appoint-
13 ments shall be for terms of three years and one of the
14 original appointments shall be for a term of four years.
15 The governor shall make his initial appointments of
16 citizen members within forty days after this section takes
17 effect.

18 Each public member shall be qualified to carry out the
19 functions of the commission under this article by reason
20 of his special interest, training, education or experience.

21 No person shall be eligible to appointment as a public
22 member who is an officer or member of any political
23 party executive committee; the holder of any other pub-
24 lic office or public employment under the United States
25 government or the government of this state or a political
26 subdivision of this state; or an employee of the com-
27 mission. Not more than six public members shall belong
28 to the same political party, and not more than three
29 public members shall be citizens and residents of the
30 county of Wood.

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

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

43 All public members shall be eligible for reappointment
44 once by the governor. A public member shall, unless
45 sooner removed, continue to serve until his term expires
46 and his successor has been appointed and has qualified.
47 A vacancy caused by the death, resignation or removal
48 of a public member prior to the expiration of his term
49 shall be filled only for the remainder of such term.

50 For the purpose of carrying out its powers, duties and
51 responsibilities under this article, six members of the
52 commission shall constitute a quorum for the transaction
53 of business so long as at least five members constituting
54 the quorum are public members. Each public member
55 and each government member shall be entitled to one
56 vote. The commission shall meet at a time and place
57 designated by the chairman at least four times each fiscal
58 year. Additional meetings may be held when called by
59 the chairman or when requested by five members of the
60 commission or by the governor. All meetings of the
61 commission shall be open to the public. Each member
62 shall be reimbursed for all reasonable and necessary ex-
63 penses actually incurred in the performance of his duties
64 under this article.

**§29-8-3. General powers of Blennerhassett historical park com-
mission as public corporation.**

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

- 3 (1) Contract and be contracted with;
- 4 (2) Plead and be impleaded;
- 5 (3) Sue and be sued;
- 6 (4) Have and use a common seal;
- 7 (5) Make bylaws for the management and regulation
8 of its affairs and activities;
- 9 (6) Acquire real and personal property by purchase
10 or lease;
- 11 (7) Establish and maintain an office in the county of
12 Wood;
- 13 (8) Exercise its corporate powers in the state of Ohio
14 to the extent permitted by the laws of the state of Ohio;
- 15 (9) Employ and fix the compensation of such per-
16 sonnel as it considers necessary or expedient;
- 17 (10) Accept and use gifts, grants and any other re-
18 sources or funds made available to it from any source,
19 whether public or private;
- 20 (11) Cooperate with the public land corporation and,
21 with its permission, use property belonging to the public
22 land corporation;

23 (12) Enter into any agreement with the state of Ohio
24 or any person, firm or corporation therein for the provi-
25 sion of electricity, water, sewer and such similar services
26 to Blennerhassett island as are necessary;

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

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

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

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

45 (17) Promulgate rules and regulations, in accordance
46 with the provisions of chapter twenty-nine-a of this code,
47 to implement and make effective the powers and duties
48 vested in it by the provisions of this article and take such
49 other steps as may, in its discretion, be necessary or
50 expedient for the proper and effective development of
51 Blennerhassett island and related locations in the county
52 of Wood into a major educational, cultural and recrea-
53 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-

6 tions which should be developed in this state concerning
7 events known or believed to have occurred on and near
8 Blennerhassett island, the economic feasibility of such
9 attractions, needed capital investment, available or con-
10 templated resources therefor, appropriate locations and
11 accessibility thereto and such other related matters as
12 the commission considers pertinent. The commission shall
13 use the information developed by the Blennerhassett
14 historical commission, provided for in article six, chapter
15 four of this code, as the starting point for this investi-
16 gation;

17 (2) Plan and execute a program for the development
18 of educational, cultural and recreational attractions re-
19 lated to events known or believed to have occurred on
20 and near Blennerhassett island;

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

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

31 (5) Make such written reports to the Blennerhassett
32 historical commission and the joint committee on gov-
33 ernment and finance as the commission considers advis-
34 able or as the Blennerhassett historical commission or
35 the joint committee requests.

36 In carrying out its duties under subdivisions (2) and
37 (3) of this section, the commission shall, as near as prac-
38 ticable, adhere to the recommendations and plans for
39 development contained in the documents prepared for
40 the Blennerhassett historical commission, submitted to
41 it on the eighteenth day of February, one thousand nine
42 hundred seventy-five, and titled as follows: (a) Sum-
43 mary report for the development of Blennerhassett is-
44 land, (b) physical masterplan, (c) interpretive master-
45 plan, (d) environmental impact and (e) market and eco-
46 nomic impact.

§29-8-5. Cooperation of state agencies and local government with Blennerhassett historical park commission; powers of local government with respect to development.

1 (a) All other state and local governmental personnel
2 and agencies shall cooperate to the fullest possible ex-
3 tent with the commission to accomplish the proper and
4 effective development of Blennerhassett island and re-
5 lated locations in the county of Wood into a major edu-
6 cational, cultural and recreational attraction.

7 (b) The county of Wood, the city of Parkersburg,
8 any other municipality in the county and any board,
9 commission, authority, agency or other office created
10 under authority thereof may, in its discretion engage
11 in any activity or undertaking designed to assist the
12 commission in the proper and effective development of
13 Blennerhassett island and related locations in the county
14 of Wood into a major educational, cultural and recrea-
15 tional attraction.

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

1 For the purpose of developing Blennerhassett island and
2 related locations in the county of Wood into a major educa-
3 tional, cultural and recreational attraction, the commission
4 may issue and sell revenue bonds not to exceed four
5 million dollars in principal amount, in the manner provid-
6 ed for hereafter in this article, to finance in whole or in
7 part any of the following undertakings:

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

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

11 (3) The construction of an amphitheatre, parking fa-
12 cilities, docking facilities and such other facilities and
13 structures as the commission considers necessary;

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

16 (5) The acquisition of furnishings and equipment for
17 any such new or existing building, facility or other struc-
18 ture; and

19 (6) The construction or acquisition of any other capital
20 improvement or capital facility. This authority includes
21 the construction or acquisition of any road, utility or other
22 property, real or personal, and any other undertaking,
23 including site improvement and landscaping, that is nec-
24 essary, appurtenant or incidental thereto.

§29-8-7. Issuance of revenue bonds.

1 The issuance of bonds under the provisions of this
2 article shall be authorized by a resolution of the commis-
3 sion. The resolution shall recite an estimate by the com-
4 mission of the cost of the proposed building or structure,
5 improvements and land and shall provide for the issuance
6 of bonds in an amount sufficient, when sold as hereinafter
7 provided, to provide moneys sufficient to pay such cost,
8 less the amount of any other funds available for the
9 construction or acquisition of the building or structure,
10 improvements and land from any appropriation, grant,
11 gift or contribution therefor. The resolution shall prescribe
12 the rights and duties of the bondholders and the commis-
13 sion. For such purpose, it may prescribe the form of the
14 trust agreement provided for in section eight of this
15 article. The bonds shall be of such series; bear such date
16 or dates; mature at such time or times not exceeding
17 thirty years from their respective dates; bear interest at
18 such rate or rates, payable semiannually; be in such de-
19 nominations; be in such form, either coupon or fully regis-
20 tered without coupons, carrying such registration as to
21 principal only; be payable in such medium of payment
22 and at such place or places; be subject to such terms
23 of redemption at such prices; and be entitled to such
24 priorities as are provided in the resolution authorizing
25 the issuance of the bonds or in any trust agreement made
26 in connection therewith. The bonds shall be signed by
27 the governor and by the chairman of the commission,
28 under the great seal of the state, attested by the secretary
29 of state. The coupons attached thereto shall bear the
30 facsimile signature of the chairman of the commission.
31 In case any of the officers whose signatures appear on
32 the bonds or coupons cease to be such officers before the
33 delivery of such bonds, the signatures shall remain valid

34 for all purposes the same as if such officers had remained
35 in office until the delivery.

36 The commission must offer the bonds for competitive
37 bids from recognized financial investment institutions
38 before the bonds may be sold. The bonds shall be
39 sold in such manner as the commission determines, tak-
40 ing into consideration the financial responsibility of the
41 purchaser, the terms and conditions of the purchase and
42 especially the availability of the proceeds of the bonds
43 when required for payment of the cost of the building or
44 structure, improvements and land, such sale to be made
45 at a price not lower than a price which, when computed
46 upon standard tables of bond values, will show a net re-
47 turn of not more than eight percent a year to the purchaser
48 upon the amount paid therefor. The proceeds of the bonds
49 shall be used solely for the payment of the cost of the
50 building or structure, improvements and land and shall
51 be deposited in the state treasury in a special fund and
52 checked out as provided by law for the disbursement of
53 other state funds. If the proceeds of such bonds, by error
54 in calculation or otherwise, together with any other funds
55 used therefor, as hereinbefore in this article authorized
56 are less than the cost of the building or structure, improve-
57 ments and land, additional bonds may in like manner be
58 issued to provide the amount of the deficiency, but in no
59 case shall they exceed the total amount of bonds authoriz-
60 ed in section six of this article less the amount of any
61 other funds used therefor; and, unless otherwise provided
62 for in the resolution or trust agreement, they shall be con-
63 sidered to be of the same issue and be entitled to payment
64 from the same fund, without preference or priority, as the
65 bonds issued before for the building or structure, improve-
66 ments and land. If the proceeds of bonds issued for the
67 building or structure, improvements and land, together
68 with the amount of any other funds used therefor, exceeds
69 the cost thereof, the surplus shall be paid into the sinking
70 fund or reserve fund to be established for payment of the
71 principal and interest of the bonds. Before the preparation
72 of definitive bonds, the commission may, under like re-
73 strictions, issue temporary bonds with or without coupons,
74 exchangeable for definitive bonds upon their issuance.

75 The bonds issued under the provisions of this article
76 shall be and have all the qualities of negotiable instru-
77 ments under the provisions of chapter forty-six of this
78 code.

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

1 The commission may enter into an agreement with any
2 trust company or with any bank having the powers of a
3 trust company, either within or outside this state, as
4 trustee for the holders of bonds issued under the provi-
5 sions of this article, setting forth therein such duties of the
6 commission with respect to the payment of the bonds; the
7 acquisition, construction, improvement, maintenance,
8 operation, repair and insurance of the building or struc-
9 ture, improvements and land; the conservation and ap-
10 plication of all moneys; the security for moneys on hand
11 or on deposit; and the rights and remedies of the trustee
12 and the holders of the bonds as are agreed upon with the
13 original purchasers of the bonds; and including therein
14 provisions restricting the individual right of action of
15 bondholders as is customary in trust agreements respect-
16 ing bonds and debentures of corporations; protecting and
17 enforcing the rights and remedies of the trustee and the
18 bondholders; and providing for approval by the original
19 purchasers of the bonds of the appointment of consulting
20 engineers and of the security given by those who contract
21 to construct the building, structure or improvement and
22 for approval by the consulting engineers of all contracts
23 for construction. Any such agreement entered into by the
24 commission shall be binding in all respects on the commis-
25 sion and its successors in accordance with its terms. Any
26 provision of any such agreement shall be enforceable by
27 an appropriate proceeding at law.

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

1 The commission shall make periodic payments to the
2 state sinking fund commission in an amount sufficient to
3 meet the requirements of any issue of bonds sold under the
4 provisions of this article, as specified in the resolution of
5 the commission authorizing the issue and in any trust
6 agreement entered into in connection therewith. The pay-
7 ments so made shall be placed by the state sinking fund

8 commission in a special sinking fund which shall be pledg-
9 ed to and charged with the payment of the principal of the
10 bonds of such issue and the interest thereon and to the
11 redemption or repurchase of such bonds, such sinking fund
12 to be a fund for all bonds of such issue without distinction
13 or priority of one over another. The moneys in the special
14 sinking fund, less such reserve for payment of principal
15 and interest as is required by the resolution of the commis-
16 sion authorizing the issue and any trust agreement made
17 in connection therewith, may be used for the redemption
18 of any outstanding bonds payable from such fund which
19 by their terms are then redeemable or for the purchase of
20 bonds at the market price, but at not exceeding the price,
21 if any, at which such bonds will be redeemable on the next
22 ensuing date upon which they are redeemable prior to
23 maturity. All bonds so redeemed or purchased shall imme-
24 diately be canceled and shall not again be issued.

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

1 The provisions of this article relating to revenue bonds
2 shall not under any circumstances be construed to author-
3 ize the commission at any time or in any manner to
4 pledge the credit or taxing power of the state. The revenue
5 bond obligations or debts created by the commission under
6 the provisions of this article shall not under any circum-
7 stances be considered obligations of the state. All bonds
8 issued by the commission under the provisions of this ar-
9 ticle shall be exempt from taxation by this state and any
10 county, school district, municipality or other subdivision
11 thereof.

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

James L. Davis
Chairman Senate Committee

Clarence C. Chester, Jr.
Chairman House Committee

Originated in the Senate.

Takes effect from passage.

James L. Davis
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

W. B. Brotherton
President of the Senate

Louis H. M. Harris
Speaker House of Delegates

The within approved this the 24th
day of March, 1975.

Anna. Thayer, Jr.
Governor

PRESENTED TO THE
GOVERNOR

ate 3/18/75
ne 4:55 p.m.