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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976



ENROLLED

Committee Substitute for
HOUSE BILL No. 1157

(By Mr. Sommerville)



PASSED February 16, 1976

In Effect from Passage



FILED IN THE OFFICE
JAMES R. McCARTNEY
SECRETARY OF STATE

THIS DATE 2/24/76

ENROLLED

H. B. 1157

(By MR. SOMMERVILLE)

(Originating in the House Committee on the Judiciary)

[Passed February 16, 1976; in effect from passage.]

AN ACT to amend and reenact sections three and four, article thirty-three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to municipal, county and municipal-county building commissions; providing for the appointment of members to such commissions and the manner of filling vacancies; providing the powers and duties of such commissions; and making the power of eminent domain subject to limitations imposed by the governmental bodies creating such commissions.

Be it enacted by the Legislature of West Virginia:

That sections three and four, article thirty-three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 33. INTERGOVERNMENTAL RELATIONS—BUILDING COMMISSIONS.

§8-33-3. Authority vested in board; composition of board; appointment; qualifications and terms of members; vacancies; reimbursement of expenses.

1 All property, powers and duties and the management and
2 control of each commission shall be vested in a board con-
3 sisting of representatives appointed by the governmental body
4 or bodies creating and establishing such commission. In the

5 case of a municipal building commission or a county building
6 commission such board shall consist of not less than three nor
7 more than five members and in the case of a municipal-county
8 building commission each participating municipality shall ap-
9 point two members and each participating county shall appoint
10 three members. All members of any board shall be appointed
11 for terms of five years. Prior to making the initial appoint-
12 ments to the board, the governmental body or bodies shall
13 make such initial appointments so that approximately one fifth
14 of the total number of members of the board shall be appointed
15 for a term of one year, approximately one fifth of the total
16 number of members of the board shall be appointed for a
17 term of two years, approximately one fifth of the total number
18 of members of the board shall be appointed for a term of three
19 years, approximately one fifth of the total number of members
20 of the board shall be appointed for a term of four years, and
21 approximately one fifth of the total number of members of the
22 board shall be appointed for a term of five years. As the term
23 of each such initial appointee expires the successor to fill the
24 vacancy created by such expired term shall be appointed for a
25 term of five years.

26 The ordinance or order creating a building commission may
27 provide for the manner of appointments to the membership of
28 such commission by the governmental body creating such com-
29 mission, which, in the case of a county, shall be the county
30 commission or other tribunal in lieu thereof and, in the case
31 of a municipality, shall be the governing body thereof.

32 If any member of any board die, resign or for any reason
33 cease to be a member of the board, the governmental body
34 which such member represented shall appoint another indi-
35 vidual to fill the unexpired portion of the term of such mem-
36 ber. No more than two thirds of the total number of members
37 of the board of each commission shall be from the same polit-
38 ical party and no member of any such board shall hold any
39 office (other than the office of notary public) or employment
40 under the United States of America, the state of West Vir-
41 ginia, any county or political subdivisions thereof, or any poli-
42 tical party. All members of any board shall be residents of the
43 municipality or county for which appointed. No member of any

44 board shall receive any compensation for his services as such,
45 but each member shall be reimbursed by the commission for
46 any reasonable and necessary expenses actually incurred in the
47 discharge of his duties as a member of the board.

§8-33-4. Powers.

- 1 Each commission shall have plenary power and authority to:
- 2 (a) Sue and be sued;
 - 3 (b) Contract and be contracted with;
 - 4 (c) Adopt, use and alter a common seal;
 - 5 (d) Make and adopt all necessary, appropriate and lawful
6 bylaws and rules and regulations pertaining to its affairs;
 - 7 (e) Elect such officers, appoint such committees and agents
8 and employ and fix the compensation of such employees and
9 contractors as may be necessary for the conduct of the affairs
10 and operations of the commission;
 - 11 (f) (1) Acquire, purchase, own and hold any property,
12 real or personal, and (2) acquire, construct, equip, main-
13 tain and operate public buildings, structures, projects and
14 appurtenant facilities, of any type or types for which the
15 governmental body or bodies creating such commission are per-
16 mitted by law to expend public funds (all hereinafter in this
17 article referred to as facilities);
 - 18 (g) Apply for, receive and use grants-in-aid, donations and
19 contributions from any source or sources, including but not
20 limited to the United States of America, or any department or
21 agency thereof, and accept and use bequests, devises, gifts
22 and donations from any source whatsoever;
 - 23 (h) Sell, encumber or dispose of any property, real or
24 personal;
 - 25 (i) Issue negotiable bonds, notes, debentures or other
26 evidences of indebtedness and provide for the rights of the
27 holders thereof, incur any proper indebtedness and issue any
28 obligations and give any security therefor which it may deem
29 necessary or advisable in connection with exercising powers as
30 provided herein;

31 (j) Raise funds by the issuance and sale of revenue bonds
32 in the manner provided by the applicable provisions of article
33 sixteen of this chapter, without regard to the extent provided
34 in section five of this article, to the limitations specified in said
35 article sixteen, it being hereby expressly provided that for the
36 purpose of the issuance and sale of revenue bonds, each com-
37 mission is a "governing body" as that term is used in said article
38 sixteen only;

39 (k) Subject to such reasonable limitations and conditions as
40 the governmental body or all of the governmental bodies
41 creating and establishing such building commission may
42 prescribe by ordinance or by order, exercise the power of
43 eminent domain in the manner provided in chapter fifty-four
44 of this code for business corporations, for the purposes set
45 forth in subdivision (f) of this section, which purposes are
46 hereby declared public purposes for which private property
47 may be taken or damaged;

48 (l) Lease its property or any part thereof, for public pur-
49 poses, to such persons and upon such terms as the commission
50 deems proper, but when any municipality or county commis-
51 sion is a lessee under any such lease, such lease must contain a
52 provision granting to such municipality or county commission
53 the option to terminate such lease during any fiscal year
54 covered thereby; and

55 (m) Do all things reasonable and necessary to carry out
56 the foregoing powers.

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

James L. Davis
Chairman Senate Committee

Clarence B. Chubbuck
Chairman House Committee

Originated in the House.

Takes effect from passage.

J. C. Williams
Clerk of the Senate

W. B. ...
Clerk of the House of Delegates

W. B. ...
President of the Senate

Lewis N. ...
Speaker House of Delegates

The within *approved* this the *23rd*
day of *February*, 1976.

Arva A. ...
Governor

PRESENTED TO THE
GOVERNOR

Date 2/18/76

Time 12:50 p.m.