

No: 1324

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

— ● —

## ENROLLED

Committee Substitute for

HOUSE BILL No. 1324

(By ~~Mr.~~ Delegate Minard + Delegate McKinley

— ● —

Passed March 4, 1986

In Effect from Passage

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 1324**  
(By DELEGATE MINARD and DELEGATE MCKINLEY)

---

[Passed March 4, 1986; in effect from passage.]

---

AN ACT to amend and reenact sections one, four, seven and eight, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the state building commission; legislative determination to continue, reestablish and extend the existence of such commission to a new, specified date, following conclusion of performance audit and fiscal audit thereon; altering and expanding the powers of the commission; providing for competitive bids being required on contracts exceeding five thousand dollars in amount; and providing for prior legislative approval, by enactment of general law, of any project, construction or acquisition, in connection with which bonds would be issued by the commission, including the amount of bonds to be so issued, the purpose of the project, and the total cost thereof.

*Be it enacted by the Legislature of West Virginia:*

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

**§5-6-1. Name of state office building commission changed; composition; appointment, terms and qualifications of members; chairman and secretary; compensation and expenses; powers and duties generally; frequency of meetings.**

1     “The State Office Building Commission of West  
2     Virginia,” heretofore created, shall continue in existence  
3     but on and after February nine, one thousand nine  
4     hundred sixty-six, shall be known and designated as  
5     “The State Building Commission of West Virginia” and  
6     shall continue as a body corporate and as an agency of  
7     the state of West Virginia. On and after the date  
8     aforesaid, the commission shall consist of the governor,  
9     attorney general, state treasurer and four additional  
10    members to be appointed by the governor by and with  
11    the advice and consent of the Senate. The terms of office  
12    for said members to be appointed by the governor shall  
13    be four years, except that the terms of office of the first  
14    four members so appointed by the governor shall be for  
15    one, two, three and four years respectively. No more  
16    than three of such members so appointed by the  
17    governor shall be members of the same political party,  
18    nor shall any of said members be members or employees  
19    of the executive, legislative or judicial branches of  
20    government of West Virginia or any political subdivi-  
21    sion thereof. The governor shall be chairman of the  
22    commission. The secretary of state shall be a member  
23    of the commission and serve as its secretary, but shall  
24    not have the right to vote upon matters before the  
25    commission. All members of the commission shall be  
26    citizens and residents of this state. The members of the  
27    commission shall be paid or reimbursed for their  
28    necessary expenses incurred under this article, but shall  
29    receive no compensation for their services as members  
30    or officers of the commission: *Provided*, That each  
31    member of the commission appointed by the governor  
32    shall, in addition to such reimbursement for necessary  
33    expenses receive a per diem of thirty-five dollars for  
34    each day or substantial portion thereof that he is  
35    engaged in the work of the commission. Such expenses  
36    and per diem shall be paid solely from funds provided  
37    under the authority of this article, and the commission

38 shall not proceed to exercise or carry out any authority  
 39 or power herein given it to bind said commission beyond  
 40 the extent to which money has been provided under the  
 41 authority of this article. On or before the fifteenth day  
 42 of each month, the commission shall prepare and  
 43 transmit to the president and minority leader of the  
 44 Senate and the speaker and the minority leader of the  
 45 House of Delegates a report covering the activities of the  
 46 said commission for the preceding calendar month.

47 After having conducted a performance and fiscal  
 48 audit through its joint committee on government  
 49 operations, pursuant to section nine, article ten, chapter  
 50 four of this code, the Legislature hereby finds and  
 51 declares that the state building commission should be  
 52 continued and reestablished. Accordingly, notwithstand-  
 53 ing the provisions of section four, article ten, chapter  
 54 four of this code, the state building commission shall  
 55 continue to exist until the first day of July, one thousand  
 56 nine hundred ninety-two.

§5-6-4. Powers of commission.

1 The commission shall have power:

2 (1) To sue and be sued, plead and be impleaded;

3 (2) To have a seal and alter the same at pleasure;

4 (3) To contract to acquire and to acquire, in the name  
 5 of the commission or of the State, by purchase, lease,  
 6 lease-purchase, or otherwise, real property or rights or  
 7 easements necessary or convenient for its corporate  
 8 purposes and to exercise the power of eminent domain  
 9 to accomplish such purposes;

10 (4) To acquire, hold and dispose of personal property  
 11 for its corporate purposes;

12 (5) To make bylaws for the management and regula-  
 13 tion of its affairs;

14 (6) With the consent of the attorney general of the  
 15 State of West Virginia, to use the facilities of his office,  
 16 assistants and employees in all legal matters relating to  
 17 or pertaining to the commission;

18       (7) To appoint officers, agents and employees, and fix  
19       their compensation;

20       (8) To make contracts, and to execute all instruments  
21       necessary or convenient to effectuate the intent of, and  
22       to exercise the powers granted to it by, this article;

23       (9) To renegotiate all contracts entered into by it  
24       whenever, due to a change in situation, it appears to the  
25       commission that its interests will be best served;

26       (10) To construct a building or buildings on real  
27       property, which it may acquire, or which may be owned  
28       by the State of West Virginia, in the city of Charleston,  
29       as convenient as may be to the capitol building, together  
30       with incidental approaches, structures and facilities,  
31       subject to such consent and approval of the city of  
32       Charleston in any case as may be necessary; and, in  
33       addition, to acquire or construct a warehouse, including  
34       office space therein, in Kanawha county for the West  
35       Virginia alcohol beverage control commissioner, and  
36       equip and furnish the same; and to acquire or construct,  
37       through lease, purchase, lease-purchase, or bond  
38       financing, hospitals or other facilities, buildings, or  
39       additions or renovations to buildings as may be neces-  
40       sary for the safety and care of patients, inmates and  
41       guests at facilities under the jurisdiction of and  
42       supervision of the department of health and at institu-  
43       tions under the jurisdiction of the department of  
44       corrections; and to formulate and program plans for the  
45       orderly and timely capital improvement of all of said  
46       hospitals and institutions and the state capitol buildings;  
47       and to construct a building or buildings in Kanawha  
48       county to be used as a general headquarters by the  
49       department of public safety to accommodate that  
50       department's executive staff, clerical offices, technical  
51       services, supply facilities and dormitory accommoda-  
52       tions; and to develop, improve and expand state parks  
53       and recreational facilities to be operated by the  
54       department of natural resources; and to establish one or  
55       more systems or complexes of buildings and projects  
56       under control of the commission; and, subject to prior  
57       agreements with holders of bonds previously issued, to  
58       change the same from time to time, in order to facilitate

59 the issuance and sale of bonds of different series on a  
60 parity with each other or having such priorities between  
61 series as the commission may determine; and to acquire  
62 by purchase, eminent domain or otherwise all real  
63 property or interests therein necessary or convenient to  
64 accomplish the purposes of this subdivision;

65 (11) To maintain, construct and operate a project  
66 authorized hereunder;

67 (12) To charge rentals for the use of all or any part  
68 of a project or buildings at any time financed, con-  
69 structed, acquired or improved in whole or in part with  
70 the proceeds of sale of bonds issued pursuant to this  
71 article, subject to and in accordance with such agree-  
72 ments with bondholders as may be made as hereinafter  
73 provided;

74 (13) To issue negotiable bonds and to provide for the  
75 rights of the holders thereof;

76 (14) To accept and expend any gift; grant or contri-  
77 bution of money to, or for the benefit of, the commission,  
78 from the State of West Virginia or any other source for  
79 any or all of the purposes specified in this article or for  
80 any one or more of such purposes as may be specified  
81 in connection with such gift, grant or contribution;

82 (15) To enter on any lands and premises for the  
83 purpose of making surveys, soundings and  
84 examinations;

85 (16) To invest in United States government obliga-  
86 tions, on a short-term basis, any surplus funds which the  
87 commission may have on hand pending the completion  
88 of any project or projects; and

89 (17) To do all things necessary or convenient to carry  
90 out the powers given in this article.

91 The rights and powers set forth in subdivision (10) of  
92 this section shall not be construed as in derogation of  
93 any rights and powers now vested in the West Virginia  
94 alcohol beverage control commissioner, the department  
95 of mental health, the commissioner of public institutions  
96 or the department of natural resources.

**§5-6-7. Contracts with commission to be secured by bond; competitive bids required for contracts exceeding five thousand dollars.**

1 The commission shall construct a project pursuant to  
2 a contract or contracts. Every such contract shall be  
3 secured by a bond meeting the requirements of section  
4 thirty-nine, article two, chapter thirty-eight of this Code.

5 No contract or contracts for the construction, remo-  
6 deling, renovation or repair of any building or buildings  
7 or any approaches, structures or facilities incidental  
8 thereto, or for the equipping and furnishing of any  
9 building or buildings, when the anticipated expenditure  
10 therefor will exceed the sum of five thousand dollars,  
11 shall be entered into except upon the basis of compet-  
12 itive sealed bids. Such bids shall be obtained by public  
13 notice soliciting such bids published as a Class II legal  
14 advertisement in compliance with the provisions of  
15 article three, chapter fifty-nine of this Code, and the  
16 publication area for such publication shall be the county  
17 in which any such contract is to be performed. The  
18 publication shall be completed at least fourteen days  
19 prior to the final date for the submission of bids. The  
20 commission may in addition to such publication also  
21 solicit sealed bids by sending requests by mail to  
22 prospective bidders. The contract shall be awarded to  
23 the lowest responsible bidder, unless any and all bids  
24 are rejected, in which event new bids shall be sought  
25 by again publishing notice as aforesaid. Any bid, with  
26 the name of the bidder, shall be entered on a record and  
27 each record, with the successful bid indicated thereon,  
28 shall, after the award of any contract, be open to public  
29 inspection in the office of the secretary of the commis-  
30 sion."

**§5-6-8. Commission empowered to issue state building revenue bonds after legislative authorization; form and requirements and requirements for bonds; procedure for issuance; temporary bonds; funds, grants and gifts.**

1 The commission is hereby empowered to raise the cost  
2 of a project, as defined in this article, by the issuance

3 of state building revenue bonds of the state, the  
4 principal of and interest on which bonds shall be  
5 payable solely from the special fund herein provided for  
6 such payment. Subject to the proceedings pursuant to  
7 which any bonds outstanding were authorized and  
8 issued pursuant to this article, the commission shall  
9 pledge the moneys in such special fund, except such part  
10 of the proceeds of sale of any bonds to be used to pay  
11 the cost of a project, for the payment of the principal  
12 of and interest on bonds issued pursuant to this article,  
13 such pledge to apply equally and ratably to separate  
14 series of bonds or upon such priorities as the commission  
15 shall determine. Such bonds shall be authorized by  
16 resolution of the commission which shall recite an  
17 estimate by the commission of such cost, and shall  
18 provide for the issuance of bonds in an amount suffi-  
19 cient, when sold as hereinafter provided, to produce such  
20 cost, less the amount of any funds, grant or grants, gift  
21 or gifts, contribution or contributions received, or in the  
22 opinion of the commission expected to be received, from  
23 the United States of America or from any other source.  
24 The acceptance by the commission of any and all such  
25 funds, grants, gifts and contributions, whether in money  
26 or in land, labor or materials, is hereby expressly  
27 authorized. All such bonds shall have and are hereby  
28 declared to have all the qualities of negotiable instru-  
29 ments. Such bonds shall bear interest at not more than  
30 twelve percent per annum, payable semiannually, and  
31 shall mature in not more than forty years from their  
32 date or dates, and may be made redeemable at the  
33 option of the state, to be exercised by the commission,  
34 at such price and under such terms and conditions, all  
35 as the commission may fix prior to the issuance of such  
36 bonds. The commission shall determine the form of such  
37 bonds, including coupons, if any, to be attached thereto  
38 to evidence the right of interest payments, which bonds  
39 shall be signed by the chairman and secretary of the  
40 commission, under the great seal of the state, attested  
41 by the secretary of state, and the coupons, if any,  
42 attached thereto shall bear the facsimile signature of the  
43 chairman of the commission. In case any of the officers  
44 whose signatures appear on the bonds or coupons issued



45 as hereinbefore authorized shall cease to be such officers  
46 before the delivery of such bonds, such signatures shall  
47 nevertheless be valid and sufficient for all purposes the  
48 same as if they had remained in office until such  
49 delivery. The commission shall fix the denominations of  
50 such bonds, the principal and interest of which shall be  
51 payable at the office of the treasurer of the state of West  
52 Virginia, at the capitol of the state, or, at the option of  
53 the holder, at some bank or trust company within or  
54 without the state of West Virginia to be named in the  
55 bonds, in such medium as may be determined by the  
56 commission. The bonds and interest thereon shall be  
57 exempt from taxation by the state of West Virginia, or  
58 any county or municipality therein. The commission  
59 may provide for the registration of such bonds in the  
60 name of the owners as to principal alone, and as to both  
61 principal and interest under such terms and conditions  
62 as the commission may determine, and shall sell such  
63 bonds in such manner as it may determine to be for the  
64 best interest of the state, taking into consideration the  
65 financial responsibility of the purchaser, and the terms  
66 and conditions of the purchase, and especially the  
67 availability of the proceeds of the bonds when required  
68 for payment of the costs of the project, such sale to be  
69 made at a price not lower than a price which, computed  
70 upon standard tables of bond values, will show a net  
71 return of not more than thirteen percent per annum to  
72 the purchaser upon the amount paid therefor. The  
73 proceeds of such bonds shall be used solely for the  
74 payment of the cost of the project for which bonds were  
75 issued, and shall be deposited and checked out as  
76 provided by section five of this article, and under such  
77 further restrictions, if any, as the commission may  
78 provide. If the proceeds of bonds issued for a project  
79 shall exceed the cost thereof, the surplus shall be paid  
80 into the fund hereinafter provided for payment of the  
81 principal and interest of such bonds. Such fund may be  
82 used for the purchase of any of the outstanding bonds  
83 payable from such fund at the market price, but at not  
84 exceeding the price, if any, at which such bonds shall  
85 in the same year be redeemable, and all bonds redeemed  
86 or purchased shall forthwith be cancelled, and shall not

87 again be issued. Prior to the preparation of definitive  
88 bonds, the commission may, under like restrictions,  
89 issue temporary bonds with or without coupons, exchan-  
90 geable for definitive bonds upon the issuance of the  
91 latter. Notwithstanding the provisions of sections nine  
92 and ten, article six, chapter twelve of this code, revenue  
93 bonds issued under the authority herein granted shall  
94 be eligible as investments for the workers' compensation  
95 fund, teachers retirement fund, department of public  
96 safety death, disability and retirement fund, West  
97 Virginia public employees retirement system and as  
98 security for the deposit of all public funds. Such revenue  
99 bonds may be issued without any other proceedings or  
100 the happening of any other conditions or things than  
101 those proceedings, conditions and things which are  
102 specified and required by this article, or by the  
103 constitution of the state. The aggregate amount of all  
104 issues of bonds outstanding at one time for all projects  
105 authorized under the provisions of this article shall not  
106 exceed sixty-two million five hundred thousand dollars  
107 including the renegotiation, reissuance or refinancing of  
108 any such bonds. No project, construction or acquisition,  
109 in connection with which bonds are to be issued, shall  
110 be initiated by the commission unless and until the  
111 legislature, through enactment of general law, approves  
112 the purpose, amount of bonds to be issued, and the total  
113 cost for such project, construction or acquisition.

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

Bruce O. Williams  
Chairman Senate Committee

Floyd Fuller  
Chairman House Committee

Originating in the House.

Takes effect from passage.

Judd C. Smith  
Clerk of the Senate

Donald L. Kopp  
Clerk of the House of Delegates

Don Tomkowiak  
President of the Senate

Joseph P. Allright  
Speaker of the House of Delegates

The within approved this the 26th  
March  
day of \_\_\_\_\_, 1986.

Richard R. Pearce Jr.  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/11/86

Time 2:02 p.m.

RECEIVED

1986 MAR 26 AM 11:01

SECRETARY OF STATE

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 3/26/86