WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

ENROLLED
Committee Substitute for
HOUSE BILL No. 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.

"The State Office Building Commission of West Virginia," heretofore created, shall continue in existence but on and after February nine, one thousand nine hundred sixty-six, shall be known and designated as "The State Building Commission of West Virginia" and shall continue as a body corporate and as an agency of the state of West Virginia. On and after the date aforesaid, the commission shall consist of the governor, attorney general, state treasurer and four additional members to be appointed by the governor by and with the advice and consent of the Senate. The terms of office for said members to be appointed by the governor shall be four years, except that the terms of office of the first four members so appointed by the governor shall be for one, two, three and four years respectively. No more than three of such members so appointed by the governor shall be members of the same political party, nor shall any of said members be members or employees of the executive, legislative or judicial branches of government of West Virginia or any political subdivision thereof. The governor shall be chairman of the commission. The secretary of state shall be a member of the commission and serve as its secretary, but shall not have the right to vote upon matters before the commission. All members of the commission shall be citizens and residents of this state. The members of the commission shall be paid or reimbursed for their necessary expenses incurred under this article, but shall receive no compensation for their services as members or officers of the commission: Provided, That each member of the commission appointed by the governor shall, in addition to such reimbursement for necessary expenses receive a per diem of thirty-five dollars for each day or substantial portion thereof that he is engaged in the work of the commission. Such expenses and per diem shall be paid solely from funds provided under the authority of this article, and the commission
shall not proceed to exercise or carry out any authority
or power herein given it to bind said commission beyond
the extent to which money has been provided under the
authority of this article. On or before the fifteenth day
of each month, the commission shall prepare and
transmit to the president and minority leader of the
Senate and the speaker and the minority leader of the
House of Delegates a report covering the activities of the
said commission for the preceding calendar month.

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

§5-6-4. Powers of commission.

The commission shall have power:

(1) To sue and be sued, plead and be impleaded;
(2) To have a seal and alter the same at pleasure;
(3) To contract to acquire and to acquire, in the name
of the commission or of the State, by purchase, lease,
lease-purchase, or otherwise, real property or rights or
easements necessary or convenient for its corporate
purposes and to exercise the power of eminent domain
to accomplish such purposes;
(4) To acquire, hold and dispose of personal property
for its corporate purposes;
(5) To make bylaws for the management and regula-
tion of its affairs;
(6) With the consent of the attorney general of the
State of West Virginia, to use the facilities of his office,
assistants and employees in all legal matters relating to
or pertaining to the commission;
(7) To appoint officers, agents and employees, and fix their compensation;

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

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

(10) To construct a building or buildings on real property, which it may acquire, or which may be owned by the State of West Virginia, in the city of Charleston, as convenient as may be to the capitol building, together with incidental approaches, structures and facilities, subject to such consent and approval of the city of Charleston in any case as may be necessary; and, in addition, to acquire or construct a warehouse, including office space therein, in Kanawha county for the West Virginia alcohol beverage control commissioner, and equip and furnish the same; and to acquire or construct, through lease, purchase, lease-purchase, or bond financing, hospitals or other facilities, buildings, or additions or renovations to buildings as may be necessary for the safety and care of patients, inmates and guests at facilities under the jurisdiction of and supervision of the department of health and at institutions under the jurisdiction of the department of corrections; and to formulate and program plans for the orderly and timely capital improvement of all of said hospitals and institutions and the state capitol buildings; and to construct a building or buildings in Kanawha county to be used as a general headquarters by the department of public safety to accommodate that department's executive staff, clerical offices, technical services, supply facilities and dormitory accommodations; and to develop, improve and expand state parks and recreational facilities to be operated by the department of natural resources; and to establish one or more systems or complexes of buildings and projects under control of the commission; and, subject to prior agreements with holders of bonds previously issued, to change the same from time to time, in order to facilitate
the issuance and sale of bonds of different series on a
parity with each other or having such priorities between
series as the commission may determine; and to acquire
by purchase, eminent domain or otherwise all real
property or interests therein necessary or convenient to
accomplish the purposes of this subdivision;

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

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

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

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

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

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

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

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

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

No contract or contracts for the construction, remodeling, renovation or repair of any building or buildings or any approaches, structures or facilities incidental thereto, or for the equipping and furnishing of any building or buildings, when the anticipated expenditure therefor will exceed the sum of five thousand dollars, shall be entered into except upon the basis of competitive sealed bids. Such bids shall be obtained by public notice soliciting such bids published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this Code, and the publication area for such publication shall be the county in which any such contract is to be performed. The publication shall be completed at least fourteen days prior to the final date for the submission of bids. The commission may in addition to such publication also solicit sealed bids by sending requests by mail to prospective bidders. The contract shall be awarded to the lowest responsible bidder, unless any and all bids are rejected, in which event new bids shall be sought by again publishing notice as aforesaid. Any bid, with the name of the bidder, shall be entered on a record and each record, with the successful bid indicated theron, shall, after the award of any contract, be open to public inspection in the office of the secretary of the commission.”

§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.

The commission is hereby empowered to raise the cost of a project, as defined in this article, by the issuance
of state building revenue bonds of the state, the
principal of and interest on which bonds shall be
payable solely from the special fund herein provided for
such payment. Subject to the proceedings pursuant to
which any bonds outstanding were authorized and
issued pursuant to this article, the commission shall
pledge the moneys in such special fund, except such part
of the proceeds of sale of any bonds to be used to pay
the cost of a project, for the payment of the principal
of and interest on bonds issued pursuant to this article,
such pledge to apply equally and ratably to separate
series of bonds or upon such priorities as the commission
shall determine. Such bonds shall be authorized by
resolution of the commission which shall recite an
estimate by the commission of such cost, and shall
provide for the issuance of bonds in an amount suf-
cient, when sold as hereinafter provided, to produce such
cost, less the amount of any funds, grant or grants, gift
or gifts, contribution or contributions received, or in the
opinion of the commission expected to be received, from
the United States of America or from any other source.
The acceptance by the commission of any and all such
funds, grants, gifts and contributions, whether in money
or in land, labor or materials, is hereby expressly
authorized. All such bonds shall have and are hereby
declared to have all the qualities of negotiable instru-
ments. Such bonds shall bear interest at not more than
twelve percent per annum, payable semiannually, and
shall mature in not more than forty years from their
date or dates, and may be made redeemable at the
option of the state, to be exercised by the commission,
at such price and under such terms and conditions, all
as the commission may fix prior to the issuance of such
bonds. The commission shall determine the form of such
bonds, including coupons, if any, to be attached thereto
to evidence the right of interest payments, which bonds
shall be signed by the chairman and secretary of the
commission, under the great seal of the state, attested
by the secretary of state, and the coupons, if any,
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 issued
as hereinbefore authorized shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The commission shall fix the denominations of such bonds, the principal and interest of which shall be payable at the office of the treasurer of the state of West Virginia, at the capitol of the state, or, at the option of the holder, at some bank or trust company within or without the state of West Virginia to be named in the bonds, in such medium as may be determined by the commission. The bonds and interest thereon shall be exempt from taxation by the state of West Virginia, or any county or municipality therein. The commission may provide for the registration of such bonds in the name of the owners as to principal alone, and as to both principal and interest under such terms and conditions as the commission may determine, and shall sell such bonds in such manner as it may determine to be for the best interest of the state, taking into consideration the financial responsibility of the purchaser, and the terms and conditions of the purchase, and especially the availability of the proceeds of the bonds when required for payment of the costs of the project, such sale to be made at a price not lower than a price which, computed upon standard tables of bond values, will show a net return of not more than thirteen percent per annum to the purchaser upon the amount paid therefor. The proceeds of such bonds shall be used solely for the payment of the cost of the project for which bonds were issued, and shall be deposited and checked out as provided by section five of this article, and under such further restrictions, if any, as the commission may provide. If the proceeds of bonds issued for a project shall exceed the cost thereof, the surplus shall be paid into the fund hereinafter provided for payment of the principal and interest of such bonds. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price, if any, at which such bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be cancelled, and shall not
again be issued. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Notwithstanding the provisions of sections nine and ten, article six, chapter twelve of this code, revenue bonds issued under the authority herein granted shall be eligible as investments for the workers' compensation fund, teachers retirement fund, department of public safety death, disability and retirement fund, West Virginia public employees retirement system and as security for the deposit of all public funds. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this article, or by the constitution of the state. The aggregate amount of all issues of bonds outstanding at one time for all projects authorized under the provisions of this article shall not exceed sixty-two million five hundred thousand dollars including the renegotiation, reissuance or refinancing of any such bonds. No project, construction or acquisition, in connection with which bonds are to be issued, shall be initiated by the commission unless and until the legislature, through enactment of general law, approves the purpose, amount of bonds to be issued, and the total 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 Fullen  
Chairman House Committee

Originating in the House.

Takes effect from passage.

Ira C. Nash  
Clerk of the Senate

Donald S. Hoag  
Clerk of the House of Delegates

Dan Toohill  
President of the Senate

Joseph P. Alleva  
Speaker of the House of Delegates

The within ... this the __th day of __________, 1986.

__________________________  
Governor