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WEST VIRGINIA LEGISLATURE

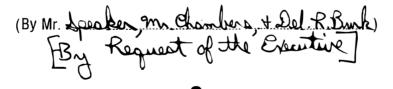
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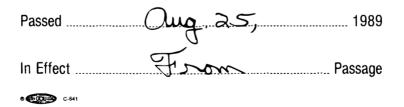
THIRD EXTRAORDINARY SESSION, 1990



ENROLLED Con. Sul. for HOUSE BILL No. 302







ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 302

(By Mr. Speaker, Mr. Chambers, and Delegate R. Burk) (By Request of the Executive)

[Passed August 25, 1990; in effect from passage.]

AN ACT to amend and reenact sections four and eight, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to empowering the state building commission to issue state building revenue bonds for facilities under the jurisdiction of the division of corrections or the regional jail and correctional facilities authority; and providing for prior legislative approval of projects undertaken by the state building commission.

Be it enacted by the Legislature of West Virginia:

That sections four 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:

ARTICLE 6. STATE BUILDING COMMISSION.

§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 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 9 to accomplish such purposes;

10 (4) To acquire, hold and dispose of personal property11 for its corporate purposes;

12 (5) To make bylaws for the management and regula-13 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;

18 (7) To appoint officers, agents and employees, and fix19 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;

(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;

26 (10) To construct a building or buildings on real $\mathbf{27}$ 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 division of health and at institutions

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under the jurisdiction of the division of corrections or 43 the regional jail and correctional facilities authority; 44 45 and to formulate and program plans for the orderly and timely capital improvement of all of said hospitals and 46 47 institutions and the state capitol buildings; and to construct a building or buildings in Kanawha county to 48 49 be used as a general headquarters by the division of 50public safety to accommodate that division's executive 51staff, clerical offices, technical services, supply facilities 52 and dormitory accommodations: and to develop, improve 53and expand state parks and recreational facilities to be 54 operated by the division of commerce: and to establish 55one or more systems or complexes of buildings and 56 projects under control of the commission; and, subject to prior agreements with holders of bonds previously 57 58 issued, to change the same from time to time, in order 59 to facilitate the issuance and sale of bonds of different 60 series on a parity with each other or having such 61 priorities between series as the commission may 62 determine; and to acquire by purchase, eminent domain 63 or otherwise all real property or interests therein 64 necessary or convenient to accomplish the purposes of 65 this subdivision:

66 (11) To maintain, construct and operate a project 67 authorized hereunder;

68 (12) To charge rentals for the use of all or any part 69 of a project or buildings at any time financed, con-70 structed, acquired or improved in whole or in part with 71the proceeds of sale of bonds issued pursuant to this 72article, subject to and in accordance with such agree-73 ments with bondholders as may be made as hereinafter 74 provided: *Provided*, That on and after the effective date 75 of the amendments to this section, to charge rentals for 76 the use of all or any part of a project or buildings at 77 any time financed, constructed, acquired, maintained or 78 improved in whole or in part with the proceeds of sale 79 of bonds issued pursuant to this article, subject to and 80 in accordance with such agreements with bondholders 81 as may be made as hereinafter provided, or with any 82 funds available to the state building commission, 83 including, but not limited to, all buildings and property

84 owned by the state of West Virginia or by the state 85 building commission, but no such rentals shall be 86 charged to the governor, attorney general, secretary of 87 state, state auditor, state treasurer, the Legislature and 88 the members thereof, the supreme court of appeals, nor 89 for their offices, agencies, official functions and duties;

90 (13) To issue negotiable bonds and to provide for the91 rights of the holders thereof;

92 (14) To accept and expend any gift, grant or contri93 bution of money to, or for the benefit of, the commission,
94 from the state of West Virginia or any other source for
95 any or all of the purposes specified in this article or for
96 any one or more of such purposes as may be specified
97 in connection with such gift, grant or contribution;

98 (15) To enter on any lands and premises for the 99 purpose of making surveys, soundings and 100 examinations;

101 (16) To invest in United States government obliga102 tions, on a short-term basis, any surplus funds which the
103 commission may have on hand pending the completion
104 of any project or projects; and

105 (17) To do all things necessary or convenient to carry106 out the powers given in this article.

107 The rights and powers set forth in subdivision (10) of 108 this section shall not be construed as in derogation of 109 any rights and powers now vested in the West Virginia 110 alcohol beverage control commissioner, the department 111 of mental health, the commissioner of public institutions 112 or the department of natural resources.

§5-6-8. Commission empowered to issue state building revenue bonds after legislative authorization; form 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

payable solely from the special fund herein provided for 5 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 resolution of the commission which shall recite an 16 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 20such cost, less the amount of any funds, grant or grants, 21 gift or gifts, contribution or contributions received, or 22 in the opinion of the commission expected to be received, 23 from the United States of America or from any other $\mathbf{24}$ source. The acceptance by the commission of any and all 25such funds, grants, gifts and contributions, whether in 26money or in land, labor or materials, is hereby expressly 27 authorized. All such bonds shall have and are hereby $\mathbf{28}$ declared to have all the qualities of negotiable instru-29 ments. Such bonds shall bear interest at not more than twelve percent per annum, payable semiannually. and 30 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, 42attached 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

nevertheless be valid and sufficient for all purposes the 47 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 54without 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 cost 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 return of not more than thirteen percent per annum to 7172the purchaser upon the amount paid therefor. The 73proceeds 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 or 79 a specific group of projects shall exceed the cost thereof, 80 the surplus shall be paid into the fund hereinafter 81 provided for payment of the principal and interest of 82 such bonds. Such fund may be used for the purchase of 83 any of the outstanding bonds payable from such fund at 84 the market price, but at not exceeding the price, if any, 85 at which such bonds shall in the same year be redeem-86 able, and all bonds redeemed or purchased shall forthwith be cancelled, and shall not again be issued. 87 88 Prior to the preparation of definitive bonds, the

commission may, under like restrictions, issue tempor-89 ary bonds with or without coupons, exchangeable for 90 definitive bonds upon the issuance of the latter. 91 Notwithstanding the provisions of sections nine and ten. 92 93 article six, chapter twelve of this code, revenue bonds issued under the authority herein granted shall be 94 eligible as investments for the workers' compensation 95 96 fund, teachers retirement fund, division of public safety 97 death, disability and retirement fund, West Virginia 98 public employees retirement system and as security for 99 the deposit of all public funds. Such revenue bonds may 100 be issued without any other proceedings or the happen-101 ing of any other conditions or things than those 102proceedings, conditions and things which are specified 103and required by this article, or by the constitution of the 104 state. For all projects authorized under the provisions 105of this article other than projects to be leased by the 106 commission to the regional jail and correctional facilities 107 authority, the aggregate amount of all issues of bonds 108 outstanding at one time shall not exceed sixty-two 109 million five hundred thousand dollars including the 110 renegotiation, reissuance or refinancing of any such 111 bonds, and no such project in connection with which 112bonds are to be issued shall be initiated by the commis-113 sion unless and until the Legislature, through enactment 114 of general law, approves the purpose, the amount of 115bonds to be issued, and the total cost for such project, 116 construction or acquisition.

117 For projects which are to be leased by the commission 118 to the regional jail and correctional facilities authority, 119 legislative approval pursuant to the provisions of this 120 section shall not be required if such projects have 121otherwise been approved by the Legislature in accor-122 dance with the provisions of subsection (m), section five, 123article twenty, chapter thirty-one of this code, and the 124 limitations on the amount of revenue bonds which may 125be issued by the commission and the project costs shall 126 be governed by the terms of any concurrent resolution 127 adopted pursuant to said subsection.

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

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage. lerk of the Senate

Clerk of the House of Delegates

IA President of the Senate Speaker of the House of Delegates

The within 10 applied this the 30^{tc} day of august Governor

PRESENTED TO TH

GOVERNOR Date \$129/40 10m 3:25pm

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