WEST VIRGINIA LEGISLATURE

THIRD EXTRAORDINARY SESSION, 1990

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ENROLLED

Com. Sub. for

HOUSE BILL No. 302

(ByMr. Speaker, Mr. Chambers, and Del. R. Bunch)

[By Request of the Executive]

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Passed Aug. 25, 1989

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;
(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 regulation 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 division of health and at institutions.
under the jurisdiction of the division of corrections or
the regional jail and correctional facilities authority;
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 division of
public safety to accommodate that division'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 division of commerce; 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 part
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: Provided, That on and after the effective date
of the amendments to this section, to charge rentals for
the use of all or any part of a project or buildings at
any time financed, constructed, acquired, maintained 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 agreements with bondholders
as may be made as hereinafter provided, or with any
funds available to the state building commission,
including, but not limited to, all buildings and property
owning by the state of West Virginia or by the state building commission, but no such rentals shall be charged to the governor, attorney general, secretary of state, state auditor, state treasurer, the Legislature and the members thereof, the supreme court of appeals, nor for their offices, agencies, official functions and duties;

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

(14) To accept and expend any gift, grant or contribution 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 obligations, 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.

§5-6-8. 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.

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 sufficient, 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 instruments. 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 cost 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 or a specific group of projects 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, division 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. For all projects authorized under the provisions of this article other than projects to be leased by the commission to the regional jail and correctional facilities authority, the aggregate amount of all issues of bonds outstanding at one time shall not exceed sixty-two million five hundred thousand dollars including the renegotiation, reissuance or refinancing of any such bonds, and no such project 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, the amount of bonds to be issued, and the total cost for such project, construction or acquisition.

For projects which are to be leased by the commission to the regional jail and correctional facilities authority, legislative approval pursuant to the provisions of this section shall not be required if such projects have otherwise been approved by the Legislature in accordance with the provisions of subsection (m), section five, article twenty, chapter thirty-one of this code, and the limitations on the amount of revenue bonds which may be issued by the commission and the project costs shall be governed by the terms of any concurrent resolution adopted pursuant to said subsection.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick L. Parker  
Chairman Senate Committee

Bernard N. Kelly  
Chairman House Committee

Originating in the House.

Takes effect from passage.

Donald E. Foxx  
Clerk of the Senate

President of the Senate

Speaker of the House of Delegates

The within is approved this the 30th day of August, 1990.

Governor