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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

THIRD EXTRAORDINARY SESSION, 1990

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ENROLLED

Com. Sub. for
HOUSE BILL No. 302

(By Mr. *Speaker, Mr. Chambers, + Del. R. Bunk*)
[By *Request of the Executive*]

— ● —

Passed *Aug 25,* 1989

In Effect *From* Passage

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
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 division of health and at institutions

43 under the jurisdiction of the division of corrections or
44 the regional jail and correctional facilities authority;
45 and to formulate and program plans for the orderly and
46 timely capital improvement of all of said hospitals and
47 institutions and the state capitol buildings; and to
48 construct a building or buildings in Kanawha county to
49 be used as a general headquarters by the division of
50 public safety to accommodate that division's executive
51 staff, clerical offices, technical services, supply facilities
52 and dormitory accommodations; and to develop, improve
53 and expand state parks and recreational facilities to be
54 operated by the division of commerce; and to establish
55 one or more systems or complexes of buildings and
56 projects under control of the commission; and, subject
57 to prior agreements with holders of bonds previously
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
71 the proceeds of sale of bonds issued pursuant to this
72 article, 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 the
91 rights of the holders thereof;

92 (14) To accept and expend any gift, grant or contri-
93 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 obliga-
102 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 carry
106 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

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
20 such 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
24 source. The acceptance by the commission of any and all
25 such funds, grants, gifts and contributions, whether in
26 money 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 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
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 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
87 forthwith be cancelled, and shall not again be issued.
88 Prior to the preparation of definitive bonds, the

89 commission may, under like restrictions, issue tempor-
90 ary bonds with or without coupons, exchangeable for
91 definitive bonds upon the issuance of the latter.
92 Notwithstanding the provisions of sections nine and ten,
93 article six, chapter twelve of this code, revenue bonds
94 issued under the authority herein granted shall be
95 eligible as investments for the workers' compensation
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
102 proceedings, conditions and things which are specified
103 and required by this article, or by the constitution of the
104 state. For all projects authorized under the provisions
105 of 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
112 bonds 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
115 bonds 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
121 otherwise been approved by the Legislature in accor-
122 dance with the provisions of subsection (m), section five,
123 article twenty, chapter thirty-one of this code, and the
124 limitations on the amount of revenue bonds which may
125 be 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.

Frederick L. Parker
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect from passage.

Samuel E. Bruce
Clerk of the Senate

Donald G. Kopp
Clerk of the House of Delegates

Will Buntelle
President of the Senate

W. H. Chandler
Speaker of the House of Delegates

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

Yaston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 8/29/40

Time 3:25 pm