

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939

ENROLLED

SENATE BILL No. 3

(By Mr. Barton)

PASSED February 6 1939

In Effect thirty days after Passage

Filed in the office of the Secretary of State
of West Virginia FEB 9 1939

Wm. S. O'BRIEN,
Secretary of State

ENROLLED
Senate Bill No. 3
(BY MR. LAFON)

[Passed February 6, 1939; in effect ninety days from passage]

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article, designated article eight-a, relating to the payment, from a county-wide levy, of remaining amounts of principal and interest on road or school districts bonded obligations, incurred prior to the adoption of the tax limitation amendment.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new article, designated article eight-a, to read as follows:

Article 8-a. County-wide Levy for District Debt Service.

Section 1. *Purpose.* Because of the present loss of levying
2 power through the impounding of debt levies in school and
3 road districts, and because of the general use and title to
4 improvements financed by the issuance of road and school
5 district bonds, this article permits the voters of a county,
6 after voting in the same manner as required by section eight,
7 article ten of the State Constitution for the incurring of an
8 original debt, to provide for the payment of road or school
9 district debt services on obligations incurred prior to the
10 adoption of the tax limitation amendment, from a county-
11 wide levy. Such county-wide levy shall come out of the allo-
12 cation of levies made by article eight, chapter eleven of this
13 code for the payment of road and school district debts in-
14 curred prior to the adoption of the tax limitation amendment.

Sec. 2. *Definitions.* For the purposes of this article:

2 "Commissioner" means the state tax commissioner.

3 "Governing body" means in the case of a county, the
4 county court; and in the case of a county school district, the
5 county board of education.

6 "District obligations" means the bonded obligations of a

7 magisterial road district authorized and issued prior to No-
8 vember eighth, one thousand nine hundred thirty-two, for
9 road or bridge purposes.

10 "School obligations" means the bonded obligations of a
11 magisterial school district or an independent school district,
12 authorized and issued prior to November eighth, one thou-
13 sand nine hundred thirty-two.

14 "Local obligations" means district obligations or school
15 obligations.

16 "Debt service" means the annual requirements for the
17 payment of principal and interest upon local obligations.

Sec. 3. *County-wide Debt Service Levy.* After approval
2 by the voters of a county given at an election held in accord-
3 ance with this article, a governing body shall during each
4 subsequent year, levy the total amount required for debt
5 service upon local obligations, for which it has previously laid
6 levies by individual districts, upon the property valuations
7 of the entire county.

Sec. 4. *Calling of Election.* A governing body may, and it
2 shall upon written petition of the registered voters of the
3 county equal in number to at least ten per cent of those

4 voting in the county in the last general election, order an
5 election to submit to the voters the question of the payment
6 out of a county-wide levy of remaining debt service on all
7 outstanding local obligations for which the governing body
8 now lays the annual levy by districts.

Sec. 5. *Content of Order.* The governing body in its order
2 calling the election shall state at least:

3 (1) The issues of local obligations outstanding by dis-
4 tricts, the original amount and purpose of each issue, and the
5 amount remaining outstanding.

6 (2) The aggregate estimated annual requirements for debt
7 service.

8 (3) The approximate rate of levy upon each class of
9 property required to pay the debt service upon a county-wide
10 basis.

11 (4) The number of years for which a levy will be re-
12 quired to liquidate the local obligations in full.

13 (5) The date of the election.

14 (6) The proportion of votes necessary for approval.

15 The order shall be entered upon the records of the govern-
16 ing body on the day issued.

Sec. 6. *Powers and Duties of the Tax Commissioner and the Attorney General.* The governing body, immediately after calling the election and before publication or posting of the notice as required by section eight, shall file copies of its order with the tax commissioner. The tax commissioner shall examine the order and shall determine whether it is in accordance with the requirements of this article, whether the statements contained therein are accurate, and whether the action of the governing body is otherwise in accordance with law. If the tax commissioner finds that the order is in accordance with this article and is accurate in statement, and that the action of the governing body is otherwise in accordance with law, he shall approve the order. The tax commissioner shall make his determination and shall certify his approval or disapproval to the governing body within ten days after the order was filed in his office. If the tax commissioner disapproves the order, he shall transmit, at the same time, a statement of his reasons, together with instructions for the correction of the order.

The attorney general shall prescribe all necessary forms

21 and instructions for the holding of an election under this
22 article.

Sec. 7. *Time of Election.* The governing body, in its or-
2 der calling the election, shall fix a date upon which the elec-
3 tion shall be held. The election may be held at the same
4 time as a general, primary or other special election, but shall
5 not be held for at least thirty days following the date of the
6 order calling the election nor less than fifteen days before
7 another election.

Sec. 8. *Notice; Publication.* The governing body shall, af-
2 ter the tax commissioner's approval of the order calling the
3 election has been received, give notice of the election by pub-
4 lication of the approved order at least once each week for
5 two successive weeks before the election in two newspapers
6 of general circulation and of opposite politics published in
7 the county. The first publication shall be made at least four-
8 teen days prior to the election. If only one newspaper is
9 published in the county, publication shall be made therein.
10 If no newspaper is published in the county, a true copy of
11 the order shall be posted at the front door of the courthouse,

12 and at a public place in each voting precinct at least ten days
13 before the election.

Sec. 9. *Form of Ballot.* A separate ballot shall be used to
2 submit the question of a county-wide debt service levy. The
3 ballot shall be in substantially the following form:

4 ELECTION TO AUTHORIZE THE PAYMENT OF
5 DISTRICT DEBT SERVICE FROM A
6 COUNTY-WIDE LEVY

7 Shall the (name of governing body) be
8 authorized and instructed to levy the annual requirements
9 of debt service for the (road bonds) (road and
10 bridge bonds) (school bonds) of (names of districts)
11 districts all incurred prior to the adoption of the tax limita-
12 tion amendment at estimated annual rates of levy of
13 cents on class I property, cents on class II property,
14 and cents on classes III and IV property for a period
15 of years on a county-wide basis?

16 ☐ For the county-wide levy

17 ☐ Against the county-wide levy

18 NOTICE TO VOTERS: Place an X mark in the square
19 opposite your choice.

Sec. 10. *Conduct of Election; Determination of Result.*

2 The general election laws of the state so far as applicable
3 shall apply to elections held under this article. "Provided,
4 however, where a special election is held, the governing body
5 having due regard to the minimum expense involved, shall
6 determine the number of election officials necessary to prop-
7 erly conduct said election, which number shall in no case be
8 less than three commissioners and two clerks, and shall
9 appoint the same and fix and pay their compensation; other-
10 wise, the election officials shall be such as are appointed to
11 serve with respect to the primary, general or other special
12 election, as the case may be, held at the same time. The local
13 levying body, however, shall provide the election supplies
14 necessary for such special election." The governing
15 body calling the election shall canvass the results at the
16 same time with reference to the election and in the same man-
17 ner as required of county courts for general elections. The
18 county-wide levy shall be deemed to be approved only if
19 three-fifths of the votes cast for and against the proposition
20 were in favor thereof. The governing body shall enter the
21 result of the election upon its record and shall certify the re-

22 sult to the tax commissioner, and to the state sinking fund
23 commission.

Sec. 11. *Subsequent Debt Levies.* After a county-wide
2 levy has been approved, the governing body shall pay the debt
3 service upon the local obligations concerned by the laying of
4 a levy to be in accordance with the allocation of levies for
5 such pre-existing debts made by article eight, chapter eleven
6 of this code, upon the classified valuations of property
7 throughout the county.

Sec. 12. *Bondholder's Remedies Saved.* The provisions of
2 this article shall not be deemed to impair or alter the rights
3 of bondholders to enforce the payment of principal and in-
4 terest upon bonded obligations by any appropriate remedy
5 against the property originally pledged for payment.

Sec. 13. *Assumption of Debt by County not Authorized.*
2 This article shall not be construed to authorize the assump-
3 tion of the legal obligation of road or school district debt by
4 the county.

Sec. 14. *Severability Clause; Inconsistent Acts Repealed.*
2 The provisions of this act shall be construed to be severable
3 and if any part should be held unconstitutional or for any

4 other reason invalid such invalidity shall not affect the
5 remaining parts.

6 All acts, or parts of acts, in conflict with the provisions of
7 this act are hereby repealed.

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

C. Frank Miller

Chairman Senate Committee

Acting

DeW. Baker

Chairman House Committee

Originated in the *Senate*

Takes effect *90 days from* passage.

Chaplin

Clerk of the Senate

Wm. S. Hall

Clerk of the House of Delegates

Wm. S. Hall

President of the Senate

James Kay Thomas

Speaker House of Delegates

The within *approved* this the *24*

day of *February*, 1939.

Wm. S. Hall

Governor