

# WEST VIRGINIA CODE: §16-13D-3

## **§16-13D-3. Individual or joint exercise of powers by certain public agencies; agreements among agencies, contents; submission to Public Service Commission; filing of agreement; prohibition against competition; retirement of bonds.**

(a) Any powers, privileges, or authority of a public agency of this state relating to public water supplies, or the transportation or treatment of wastewater, or the operation of a stormwater system may be exercised individually or jointly with any other public agency of this state, or with any agency of the United States to the extent that the laws of the United States permit. Any agency of the state government when acting individually or jointly with any public or private agency may exercise all of the powers, privileges, and authority conferred by this act upon a public agency.

(b) Any public agency may individually organize a regional water authority, regional wastewater authority, regional stormwater authority, or any combination thereof. Any public agency may enter into agreements with one or more other public agencies for the purpose of organizing a regional water authority, regional wastewater authority, regional stormwater authority, or any combination thereof. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agency or agencies required by the provisions of Chapter 8 and Chapter 16 of this code shall be necessary before any agreement may enter into force.

(c) For an agency acting individually, the organizational document for the authority shall specify the following:

- (1) The precise organization, composition, and nature of the authority created thereby together with the powers delegated thereto;
- (2) Its purpose or purposes;
- (3) The manner of financing for the authority and of establishing and maintaining a budget therefor;
- (4) The manner of acquiring, holding, and disposing of real and personal property of the authority; and
- (5) Any other necessary and proper matters.

(d) Any agreement between two or more public agencies to organize an authority shall specify the following:

- (1) Its duration;
- (2) The precise organization, composition and nature of the authority created thereby

together with the powers delegated thereto;

(3) Its purpose or purposes;

(4) The manner of financing for the authority and of establishing and maintaining a budget therefor;

(5) The permissible methods for partial or complete termination of the agreement and for disposing of property upon partial or complete termination;

(6) The manner of acquiring, holding, and disposing of real and personal property of the authority;

(7) Any other necessary and proper matters.

(e) Any agreement between two or more public agencies to organize an authority may be amended to include additional public agencies by consent of two-thirds of the signatories to the agreement, if no terms of agreement are changed, otherwise a new agreement with the new public agency shall be drawn. Where fewer than three public agencies come together to form an authority, both parties shall consent to the amendment of the agreement to include additional public agencies.

(f) Any agency acting individually to organize an authority and every agreement made hereunder shall be submitted to the Public Service Commission for its approval. The Public Service Commission shall, within 30 days of the filing date, notify the agency whether the agency has filed all required documentation regarding the organization or agreement that is required by the Commission. If the Commission determines that additional information is needed it will inform the agency of the information needed. Failure by the Public Service Commission to approve or disapprove an agency's decision to individually organize an authority or an agreement submitted hereunder within 90 days of the date that the Commission has before it all of the necessary information from the agency shall constitute approval thereof: *Provided*, That the 90-day Commission review period may be extended upon request of the agency.

(g) Prior to taking effect, the organizational document of the agency acting individually or the agreement between two or more agencies made hereunder shall be filed with the clerk of the county commission of each county in which the agency acting individually, or in the case of an authority organized by agreement of two or more agencies, in the county where each member of the authority is located and the agreement then also shall be filed with the Secretary of State, accompanied by a certificate from the clerk of the county commission of the county, or counties, where filed, stating that the agreement has been filed in that county.

(h) A public agency which enters into an agreement made hereunder may not offer or provide water, wastewater, or stormwater services in competition with another public agency entering into the agreement.

(i) A public agency which enters into an agreement made hereunder may not withdraw from the agreement until such time as the outstanding bonded indebtedness of the authority is retired or the bond holders are otherwise protected.