WEST VIRGINIA CODE: §22C-3-11

§22C-3-11. Establishment of reserve funds, replacement and improvement funds and sinking funds; fiscal agent; purposes for use of bond proceeds; application of surplus.

(a) Before issuing any revenue bonds in accordance with the provisions of this article, the board shall consult with and be advised by the water development authority as to the feasibility and necessity of the proposed issuance of revenue bonds. Such consultation shall include, but not be limited to, the following subjects:

(1) The relationship of the proposed issuance of revenue bonds to the statutory debt limitation provided for in section ten of this article;

(2) The degree to which the proceeds will be used for capital improvements in the form of real or personal property;

(3) The extent to which the proposed use of proceeds coincides with the purposes of this article;

(4) A weighing of the public benefit to be derived from the issuance as opposed to any private gain; and

(5) The sufficiency of projected revenues available to the board to pay the interest on indebtedness as it falls due, to constitute a sinking fund for the payment thereof at maturity, or to discharge the principal within a prescribed period of time.

(b) Prior to issuing revenue bonds under the provisions of this article, the board shall enter into agreements satisfactory to the water development authority with regard to the selection of all consultants, advisors and other experts to be employed in connection with the issuance of such bonds and the fees and expenses to be charged by such persons, and to establish any necessary reserve funds and replacement and improvement funds, all such funds to be administered by the water development authority, and, so long as any such bonds remain outstanding, to establish and maintain a sinking fund or funds to retire such bonds and pay the interest thereon as the same may become due. The amounts in any such sinking fund, as and when so set apart by the board, shall be remitted to the water development authority at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by the water development authority, as agent for the board, in a manner consistent with the provisions of this article and with the resolution pursuant to which the bonds have been issued. The water development authority shall act as fiscal agent for the administration of any sinking fund and reserve fund established under each resolution authorizing the issuance of revenue bonds pursuant to the provisions of this article, and shall invest all funds not required for immediate disbursement in the same manner as funds are invested pursuant to the provisions of section fifteen, article one of this

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chapter.

(c) Notwithstanding any other provision of this article to the contrary, no revenue bonds shall be issued, nor the proceeds thereof expended or distributed, pursuant to the provisions of this article, without the prior approval of the water development authority. Upon such approval, the proceeds of revenue bonds shall be used solely for the following purposes:

(1) To pay the cost of acquiring, constructing, reconstructing, enlarging, improving, furnishing, equipping or repairing solid waste disposal projects;

(2) To make loans to persons or to governmental agencies for the acquisition, design and construction of solid waste disposal projects, taking such collateral security for any such loans as may be approved by the water development authority; and

(3) To pay the costs and expenses incidental to or necessary for the issuance of such bonds.

(d) If the proceeds of revenue bonds issued for any solid waste disposal project exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal and interest upon such bonds. Such fund may be used by the fiscal agent for the purchase or redemption of any of the outstanding bonds payable from such fund at the market price, but not at a price exceeding the price at which any of such bonds is in the same year redeemable, as fixed by the board in its said resolution, and all bonds redeemed or purchased shall forthwith be canceled, and shall not again be issued.

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