

# WEST VIRGINIA CODE: §22c-1-5

## **§22C-1-5. Authority may construct, finance, maintain, etc., water development projects; loans to governmental agencies are subject to terms of loan agreements.**

To accomplish the public policies and purposes and to meet the responsibility of the state as set forth in this article, the water development authority may initiate, acquire, construct, maintain, repair and operate water development projects or cause the same to be operated pursuant to a lease, sublease or agreement with any person or governmental agency; may make loans and grants to governmental agencies for the acquisition or construction of water development projects by governmental agencies, which loans may include amounts to refinance debt issued for existing water development projects of the governmental agency when the refinancing is in conjunction with the financing for a new water development project regardless of the source of the financing for the new project: Provided, That the amount of the refinancing may not exceed 50% of the aggregate amount of the refinancing of an existing project and the financing of a new project; and may issue water development revenue bonds of this state, payable solely from revenues, to pay the cost of projects, or finance projects, in whole or in part, by loans to governmental agencies. A water development project may not be undertaken unless it has been determined by the authority to be consistent with any applicable comprehensive plan of water management approved by the Secretary of the Department of Environmental Protection or in the process of preparation by the secretary and to be consistent with the standards set by the state environmental quality board, for the waters of the state affected thereby. Any resolution of the authority providing for acquiring or constructing projects or for making a loan or grant for projects shall include a finding by the authority that the determinations have been made. A loan agreement shall be entered into between the authority and each governmental agency to which a loan is made for the acquisition or construction of a water development project, which loan agreement shall include, without limitation, the following provisions:

- (1) The cost of the project, the amount of the loan, the terms of repayment of the loan and the security therefor, which may include, in addition to the pledge of all revenues from the project after a reasonable allowance for operation and maintenance expenses, a deed of trust or other appropriate security instrument creating a lien on the project;
- (2) The specific purposes for which the proceeds of the loan shall be expended including the refinancing of existing water development project debt as provided above, the procedures as to the disbursement of loan proceeds and the duties and obligations imposed upon the governmental agency in regard to the construction or acquisition of the project, including engineering fees and other administrative costs relating to development of the project;
- (3) The agreement of the governmental agency to impose, collect, and, if required to repay the obligations of the governmental agency under the loan agreement, increase service charges from persons using the project, which service charges shall be pledged for the repayment of the loan together with all interest, fees and charges thereon and all other

financial obligations of the governmental agency under the loan agreement;

(4) The agreement of the governmental agency to comply with all applicable laws, rules and regulations issued by the authority or other state, federal and local bodies in regard to the construction, operation, maintenance and use of the project;

(5) The number of proposed customers and their physical locations within the project, and providing as a condition of the agreement, that no proposed customers listed in the project application agreement may be removed from inclusion in the project without prior authorization of the board; and

(6) The agreement of the governmental agency to perform an annual maintenance audit which maintenance audit shall be submitted to the board and the Public Service Commission of West Virginia.