
WEST VIRGINIA CODE CHAPTER 8
ARTICLE 27

WV Legislature

**PART I. TITLE; FINDINGS; DEFINITIONS; CREATION OF
AUTHORITIES.**

§8-27-1. Short title.

This article may be cited as the "Urban Mass Transportation Authority Act."

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§8-27-2. Legislative findings and declaration of policy.

The Legislature hereby finds and declares:

- (a) That a significant part of the population of this state is located in expanding urban areas;
- (b) That in certain of these areas there are no urban mass transportation systems and in others there are urban mass transportation systems which are inadequate or in imminent danger of becoming inadequate or in imminent danger of discontinuing such service;
- (c) That the establishment and maintenance of adequate urban mass transportation systems in such areas is essential for preserving viable urban areas and further promoting the healthful, safe, orderly and economical development and expansion of such urban areas;
- (d) That the creation of urban mass transportation authorities to establish and maintain urban mass transportation systems in such areas is for the welfare of the people of this state in general and of the participating governments in particular, and is a public purpose for which public money may be spent and private property acquired; and
- (e) This article is enacted in view of these findings and shall be liberally construed in the light thereof.

§8-27-3. Definitions.

As used in this article, unless a different meaning appears from the context:

- (a) "Authority" means any urban mass transportation authority created pursuant to the provisions of this article;
- (b) "Board" means the board of any urban mass transportation authority;
- (c) "Contiguous counties" means two or more counties which constitute a compact territorial unit within an unbroken boundary wherein one county touches at least one other county, but does not require that each county touch all of the other counties so combining;
- (d) "Facilities and equipment" means all real and personal property of every kind and character owned or held by any urban mass transportation system for the purpose of providing transportation by bus or rail or other conveyance serving the public;
- (e) "Participating government" means any municipality or county establishing or participating in an urban mass transportation authority;
- (f) "Project" means any undertaking of an authority;
- (g) "Revenues" means the gross receipts derived directly or indirectly from or in connection with the operation by an authority of any urban mass transportation system or systems and shall include, without limitation, all fees, rates, fares, rentals or other income actually received or receivable by or for the account of an authority from the operation of the system, and any other receipts from whatever source derived;
- (h) "Service area of the authority" means and includes an area commensurate with the area served by an existing system or systems acquired or to be acquired by an authority, or if there be no existing system, the area shall extend to and include an area to be defined by the authority;
- (i) "System" means any urban mass transportation system;
- (j) "Trust indenture" means a security instrument entered into by an authority pursuant to which bonds or notes are issued;
- (k) "Urban area" means any area that includes a municipality or other built-up place which is appropriate for a system to serve commuters or others in the locality taking into consideration the local patterns and trends of growth;
- (l) "Urban mass transportation system" means any common carrier of passengers for hire which operates equipment over regular routes within the service area of the authority; and
- (m) The singular shall include the plural and the plural shall include the singular.

§8-27-4. Urban mass transportation authorities authorized; authorities to be public corporations.

Any municipality or county, or both, or any two or more municipalities within any county or contiguous counties, or any two or more contiguous counties, or any combination thereof, may create an urban mass transportation authority. Such authority shall be created upon the adoption, by the governing body of each participating government, acting individually, of an appropriate ordinance or order. Each authority shall constitute a public corporation, and as such, shall have perpetual existence.

PART II. ORGANIZATION AND FUNCTION OF AUTHORITIES AND BOARDS.

§8-27-5. Management of authority vested in board; eligibility, appointment, number and term of members; vote of members; vacancies.

The management and control of any authority, its operations, business and affairs shall be lodged in a board of not less than five nor more than fifteen individuals who shall be known as members of the board and who shall be appointed for terms of three years each by the governing bodies of the participating governments. Prior to making the initial appointments to the board, the governing bodies of the participating governments shall agree to make such initial appointments so that approximately one third of the total number of the members to be so appointed shall be appointed for a term of one year, approximately one third of such total number of the members shall be appointed for a term of two years and approximately one third of such total number of the members shall be appointed for a term of three years. As the term of each such initial appointee expires, the successor to fill the vacancy created by such expired term shall be appointed for a term of three years. The number of members representing each participating government shall be as agreed upon from time to time by the governing bodies of the said participating governments. When a participating government is represented by more than one member on the board of an authority, such members shall be entitled to cast the votes of that participating government in such manner as that participating government may direct in the order or ordinance appointing its members.

Each participating government shall have one vote for each \$500 it has contributed to the authority in the form of moneys or property. When property is contributed, the contributing participating government and the authority shall agree in writing at the time the contribution is made as to the fair market value of such property, which valuation shall determine the number of votes to be allocated to the participating government on the basis thereof. For the fiscal year during which any authority is formed, the number of votes to which any participating government shall be entitled shall be determined as of the time of formation of the authority and shall govern until the end of that fiscal year, even though additional moneys or property are contributed during that fiscal year. Thereafter, the number of votes shall be determined at the end of each fiscal year and such determination shall govern for the ensuing fiscal year, even though additional moneys or property are contributed during that fiscal year. Subsequent to its formation, any authority may permit any municipality or county within or without this state to participate in the affairs of the authority, to appoint members of the authority in the same manner, and to have such vote or votes beginning as of the next ensuing fiscal year, as prescribed by law with respect to the original participating municipalities or counties or any combination thereof.

Any individual who is a resident of, or member of the governing body, of, any participating government is eligible to serve as a member of the board. The governing body of each participating government shall inform the authority of its appointments or reappointments to

the board by delivering to the authority a certified copy of the ordinance or order making the appointment or reappointment. If any member of the board dies, resigns or for any other reason ceases to be a member of the board, the governing body of the participating government which such member represented shall appoint another individual to fill the unexpired portion of the term of such member.

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§8-27-6. Compensation of members; expenses.

As compensation for his services on the board each member shall receive from the authority the sum of \$50 for each meeting actually attended. The total compensation paid to any member by the authority for any fiscal year shall not exceed in the aggregate the sum of \$600. Each member shall also be reimbursed by the authority for all reasonable and necessary expenses actually incurred in the discharge of his duties as a member of the board.

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§8-27-7. Meetings of authority; officers; employees; official bonds; records of authority public records.

At its first meeting, to be held no later than sixty days from the creation of the authority as provided in section four of this article, the board shall elect from its membership a president to act during the next ensuing fiscal year, or until his successor is elected and qualified. At that time, the board shall also elect a vice president, a secretary and a treasurer and such other officers as may be required, who need not be members of the board, whose duties shall be defined and whose compensation shall be fixed by the board and paid out of the funds of the authority. The treasurer, and such other officers and employees as the board shall direct, shall furnish bond for the use and benefit of the authority in such penal sum as may be fixed by the board and conditioned upon the faithful discharge by such treasurer and such other officers and employees so directed by the board of the duties of their respective offices or employment, and upon accounting for and paying over all moneys which may come into their possession by virtue of such office or employment. At its first meeting the board shall also fix the time and place for holding regular meetings, but it shall meet at least once in the months of January, April, July and October. Special meetings of the board may be called by the president or by two members upon written request to the secretary. The secretary shall send to all the members, at least two days in advance of a special meeting, a written notice setting forth the time and place of the special meeting and the matters to be considered at such special meeting. Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting, or if all the members are present at the special meeting. All regular meetings shall be general meetings for the consideration of any and all matters which may properly come before an authority. All proceedings of the authority shall be entered in a permanently bound record book, properly indexed, and the same shall be carefully preserved by the secretary of the authority. All records of the authority shall be public records.

§8-27-8. Quorum; majority vote required.

A majority of the members of the board, which majority must include members from a majority of the participating governments, shall constitute a quorum. The vote of a majority of all members present at any meeting of the board shall be necessary to take any action.

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§8-27-9. Budget.

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the authority and annually thereafter the treasurer shall prepare and submit to the board a tentative budget. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by said board, shall be adopted as the budget for the ensuing fiscal year. No expenditures in excess of the budget shall be made during such fiscal year unless expressly authorized and directed by the board. It shall not be necessary to include in such budget any statement of necessary expenditures for annual interest or principal payments on bonds or for capital outlays, but it shall be the duty of the board to make provisions for their payment as they become due.

PART III. POWERS AND DUTIES OF AUTHORITIES.

§8-27-10. Powers and duties of authorities generally.

Each authority is hereby given the power:

- (a) To sue and be sued, implead and be impleaded;
- (b) To have and use a seal and alter the same at pleasure;
- (c) To make and adopt all rules and regulations and bylaws as may be necessary or desirable to enable it to exercise the powers and perform the duties conferred or imposed upon it by the provisions of this article;
- (d) To employ, in its discretion, planning, architectural and engineering consultants, attorneys, accountants, construction, financial, transportation and traffic experts and consultants, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation;
- (e) To acquire by grant, purchase, gift, devise or lease and to hold, use, sell, lease or otherwise dispose of real and personal property of every kind and nature whatsoever, licenses, franchises, rights and interests necessary for the full exercise of its powers pursuant to the provisions of this article, or which may be convenient or useful for the carrying out of such powers;
- (f) To acquire, construct, reconstruct, complete, develop, improve, own, equip, maintain and operate any system or systems, or any part thereof, including, without limitation, the power to acquire by purchase, lease or gift all or any part of any licenses, franchises, rights, interests, engineering and technical studies, data or reports owned or held by any person and determined by its board to be necessary, convenient or useful to the authority in connection with the acquisition, construction, reconstruction, completion, development, improvement, ownership, equipping, maintenance or operation of any system or systems and to reimburse public utilities for relocation of any utility line or facility made necessary by the construction, reconstruction, completion, development, improvement, equipping, maintenance or operation of any system or systems;
- (g) To acquire any land, rights or easements deemed necessary or incidental for the purposes of the authority by eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by business corporations;
- (h) To enter into contracts and agreements which are necessary, convenient or useful to carry out the purposes of this article with any person, public corporation, state or any agency or political subdivision thereof and the federal government and any department or agency thereof, including, without limitation, contracts and agreements for the joint use of

any property and rights by the authority and any person or authority operating any system, whether within or without the service area of the authority, and contracts and agreements with any person or authority for the maintenance, servicing, storage, operation or use of any system or part thereof, facility or equipment on such basis as shall seem proper to its board;

(i) To enter into contracts and agreements for superintendence and management services with any person, who has executive personnel with experience and skill applicable to the superintendence and management of any system, for the furnishing of its services and the services of experienced and qualified personnel for the superintendence and management of any system or any part thereof, including, without limitation, superintendence over personnel, purchases, properties and operations and all matters relating thereto, and any revenue bond trust indenture may require such contract or agreement, but the personnel whose services are to be so furnished under any such contract or agreement shall not include any member of the board, any member of the immediate family of a member of the board or any agents or employees of the authority, and no such contract or agreement shall extend beyond a term of ten years or such longer time as there are outstanding any revenue bonds under a trust indenture which requires such contract or agreement;

(j) To assume any lien indebtedness of any system or part thereof acquired by it under the provisions of this article;

(k) To execute security agreements, contracts, leases, equipment trust certificates and any other forms of contracts or agreements, granting or creating a lien, security interest, encumbrance or other security in, on or to facilities and equipment, containing such terms and provisions as the board deems necessary;

(l) To apply for, receive and use grants, grants-in-aid, donations and contributions from any source or sources, including, but not limited to, the federal government and any agency or department thereof, and a state government whose Constitution does not prohibit such grants, grants-in-aid, donations and contributions, and any agency or department thereof, and to accept and use bequests, devises, gifts and donations from any person;

(m) To lease any system or any part thereof to, or contract for the use of any system or any part thereof by, any person, but a trust indenture may prohibit, limit or restrict the exercise of such power;

(n) To acquire for cash or in exchange for its bonds all or any part of any publicly or privately owned system or systems;

(o) To make or cause to be made either by itself or in cooperation with other persons or organizations, whether public or private, traffic surveys, population surveys and such other surveys and studies as it shall consider useful in the performance of its duties or the exercise of its powers under the provisions of this article and in connection therewith the authority may contract with any person or organization for such planning services;

(p) To enter into contracts and agreements with any public or private system either within or contiguous to its boundaries for the transfer of passengers between it and the system operating in territory contiguous to its boundaries;

(q) To fix and establish from time to time, such fees, rates or other charges and routes, time schedules and standards of service as will provide revenues in each year at least sufficient to pay the principal of and interest on all bonds issued by the authority, and reasonable reserves therefor, as the same shall become due, together with the cost of administration, maintenance, repair and operation of such system or systems in each year, together with all other payments required in each such year by the resolution which authorized the issuance of such bonds, or the trust indenture securing the same, including, without limitation, reasonable reserves or margins for any of such purposes: Provided, That prior to the initial implementation of any fees, rates or other charges and any subsequent increase thereof affecting generally the users of the system, every authority shall hold a public hearing in the service area of the system on such proposed fees, rates or other charges or any increase thereof, and each authority shall publish a notice of the time and place of said hearing as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the service area of the authority. Such notice shall plainly state the fees, rates or other charges or any increase thereof to be imposed, the time when they shall go into effect, and the time and place where such public hearing will be conducted. Said public hearing shall not be less than ten days subsequent to the date of the last publication of such notice. At such hearing all objections and suggestions shall be heard, and after the hearing has been held the authority shall take such action as it shall deem proper: Provided, however, That the foregoing public hearing and notice requirements shall not apply to fees, rates or charges imposed for charter or special services rendered by said authorities;

(r) To issue revenue bonds of the authority for any of its purposes or projects and to refund its bonds, all as provided in this article;

(s) To encumber or mortgage all or any part of its facilities and equipment;

(t) To prepare plans for and assist in the relocation of persons displaced by the authority and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government; and

(u) To do any and all things necessary or convenient to carry out the powers given in this article unless otherwise forbidden by law.

§8-27-10a. Smoking on vehicles prohibited; posting of signs required; criminal penalties.

(a) Every authority operating any vehicle accessible to the public, designed for the ground transportation of eight or more persons, shall post "No Smoking" signs conspicuously at the entrance to, and on the inside of, each such vehicle. No person shall smoke or carry a lighted pipe, cigar or cigarette in any such vehicle wherein a sign prohibiting smoking is posted.

(b) The posting requirements set forth in subsection (a) above do not apply to any vehicle operated in interstate commerce, nor to any chartered vehicle: Provided, That if any vehicle operated in interstate commerce or chartered vehicle has a posted nonsmoking area, no person shall smoke or carry a lighted pipe, cigar, or cigarette in the posted nonsmoking area of such vehicle.

(c) Any person who violates any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$20 nor more than \$100.

PART IV. FUNDS OF AUTHORITIES.

§8-27-11. Contributions to authorities; funds and accounts of authorities; reports; audit by State Tax Department.

Contributions may be made to authorities from time to time by the participating governments and by any other municipalities, counties or persons that shall desire to do so. All such funds and all of the other funds received by any authority shall be deposited in a separate account in such banking institution or institutions as its board may direct and shall be withdrawn therefrom only in such manner as its board may direct. Each authority shall keep strict account of all its receipts and expenditures and shall make a quarterly report to the participating governments which have made contributions to it and such report shall contain an itemized account of its receipts and disbursements during the preceding quarter. Such report shall be made within sixty days after the termination of the quarter. Within ninety days after the end of each fiscal year, each authority shall make an annual report containing an itemized statement of its receipts and disbursements for the preceding fiscal year, and any and all other information which the board may deem pertinent, to all of the participating governments. The books, records and accounts of each authority shall be subject to audit and examination by the state Tax Department of West Virginia.

PART V. DEVELOPMENT OF TRANSPORTATION PLAN.

§8-27-12. Study and plan of operation; notice and hearing; adoption of transportation plan.

The authority, as soon as practical after its organization, shall prepare a comprehensive plan with respect to a program for a unified or officially coordinated system as a part of a comprehensively planned development of the urban area within its service area. Said program, to the maximum extent feasible, shall provide for the participation of privately owned systems.

In the preparation of a comprehensive plan, an authority shall make careful and comprehensive surveys and studies of the existing conditions and probable future changes of such conditions within its service area. The comprehensive plan shall be made for the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of systems within the service area which, in accordance with present and future needs and resources, will best promote the health, safety and general welfare of the inhabitants of the service area, as well as the orderly and economical development and expansion of the service area.

Prior to the adoption of a comprehensive plan, the authority shall submit its tentative plan to the governing bodies of the participating governments and hold a public hearing in the service area on the plan. At least thirty days prior to the date set for hearing, the authority shall publish a notice of the time and place of the hearing as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the service area of the authority. After a public hearing has been held, the authority may by resolution adopt the comprehensive plan and may from time to time amend, supplement or change the comprehensive plan in the same manner in which it was adopted.

PART VI. DEVELOPMENT OF SYSTEM; FINANCING THEREOF.

§8-27-13. Resolution authorizing acquisition or construction of urban mass transportation system.

Before the authority shall acquire or construct any system, the authority shall adopt a proper resolution which shall include:

- (a) The estimated cost of the acquisition or construction and all incidental expenses connected therewith;
- (b) The probable sources of revenue and the estimated amount thereof;
- (c) The estimated cost of administration, maintenance, repair and operation thereof;
- (d) The proposed methods of financing; and
- (e) Any other information which the authority shall deem appropriate.

Such resolution shall also:

- (a) Order the acquisition or construction of such system;
- (b) If appropriate, direct that revenue bonds in such amount as the authority may deem necessary to pay all or any part of the cost of acquisition or construction of such system be issued pursuant to the provisions of this article; and
- (c) Set forth the amount of the principal of the indebtedness, the maximum term the bonds proposed to be issued shall run before maturity and the maximum rate of interest to be paid and such other details with respect to the bonds and the trust indenture, if any, securing the same as the authority may deem necessary or desirable.

Before such resolution shall become effective, the authority shall submit such resolution to the governing bodies of the participating governments and hold a public hearing in the service area on the resolution. At least thirty days prior to the date set for hearing, the authority shall publish a notice of the time and place of hearing as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the service area of the authority. At such hearing all objections and suggestions shall be heard and after the hearing has been held the authority shall take such action as it shall deem proper.

§8-27-14. Bonds generally.

The authority is hereby empowered and authorized to provide by resolution, from time to time, for the issuance of revenue bonds of the authority for the purpose of paying all or any part of the cost of acquiring, constructing or improving a system or systems, or any part thereof, or the facilities and equipment therefor, as the case may be, or for any other purpose or project authorized by the provisions of this article. The purposes for which revenue bonds may be issued may include the payment of all costs and estimated costs incidental to or connected with the accomplishment of such purpose or project including, without limitation, engineering, inspection and legal fees, the fees of fiscal agents and financial consultants and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed two years thereafter, and expenses of all proceedings for the authorization, issuance and sale of the bonds.

The bonds of each issue shall be dated and shall bear interest at such rate or rates as are approved by the authority, payable semiannually, and shall mature at such time or times not exceeding forty years from their date or dates as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be at any banking institution or trust company within or without the state. The bonds shall be signed by the president of the authority or shall bear his facsimile signature, and the official seal of the authority, or a facsimile thereof, shall be impressed or imprinted thereupon and attested by the secretary of the authority, and any coupons attached to the bonds shall bear the facsimile signature of the president of the authority. All such signatures, countersignatures and seal may be printed, lithographed or mechanically reproduced, except that one of such signatures or countersignatures on the bonds shall be manually affixed, unless the resolution authorizing the issuance of such bonds shall otherwise provide. If any officer whose signature or countersignature or a facsimile of whose signature or countersignature appears on bonds or coupons ceases to be such officer before the delivery of the bonds, his signature shall be as effective as if he had remained in office until such delivery. The bonds may be issued in coupon or in registered form, or both, as each authority may determine and provision may be made for the registration of any coupon bonds as to principal alone, and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof that the bond is nonnegotiable, all such bonds shall be, and shall be treated as, negotiable instruments for all purposes except when registered in the name of a registered owner.

The authority may exchange its bonds, in whole or in part, for any system or systems, or any parts thereof, or facilities and equipment therefor, or may sell its bonds, in whole or in part,

in such manner either at public or private sale and for such price as it may determine will best effect the purposes of this article and be for the best interest of the authority: Provided, That if the bonds be issued the minimum price for which they may be exchanged or at which they may be sold shall be such that the interest cost to the authority of the proceeds of the bonds shall not exceed the interest rate per annum thereon computed to maturity according to the standard table of bond values.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

The authority is hereby empowered and authorized to provide by resolution, from time to time, for the issuance, sale or exchange of revenue refunding bonds of such authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this article, including the payment of any redemption premium thereon, and any interest accrued or to accrue to the date of redemption of such bonds, and the payment of all expenses incidental thereto. The authority is further empowered and authorized to provide by resolution, from time to time, for the issuance, sale or exchange of revenue bonds of such authority for the combined purpose of refunding any bonds then outstanding, as herein provided, and paying all or any part of the cost of any additional project or projects. All provisions of this article applicable to the issuance of revenue bonds are applicable to the issuance of refunding bonds and to the sale or exchange thereof.

§8-27-15. Trust indenture generally.

In the discretion of the authority, any bonds issued under the provisions of this article may be secured by a trust indenture by and between such authority and a corporate trustee, which may be any trust company or banking institution having the powers of a trust company within or without the state, or any person in the United States having power to enter into the same, including any federal agency.

Any resolution authorizing the issuance of such bonds or any trust indenture securing the same may contain such provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustee as the authority may deem necessary and proper and not in violation of law, including provisions pledging all or any part of the revenues of such authority or encumbering all or any part of the facilities and equipment of such authority to secure the payment of the bonds subject to such agreements with bondholders as may then exist; limiting the purpose to which the proceeds of sale of any bonds then or thereafter to be issued may be applied; defining the duties of such authority in relation to the acquisition, construction, improvement, maintenance, repair, operation and insurance of any project or projects in connection with which such bonds shall have been authorized; providing for the custody, safeguarding and application of all moneys; limiting the issuance of additional bonds; prescribing a procedure by which the provisions of any trust indenture or contract with bondholders may be amended or modified; requiring such authority to fix and establish such fees, rates or other charges and routes, time schedules and standards of service as will provide revenues in each year at least sufficient to pay the principal of and interest on all bonds issued by such authority and reasonable reserves therefor as the same shall become due, together with the cost of administration, maintenance, repair and operation of such system or systems in each year, including, without limitation, reasonable reserves or margins or sinking funds for any of such purposes, defining the acts or omissions to act which shall constitute a default in the duties of such authority to the holders of its bonds and providing the rights and remedies of such holders and of the trustee in the event of default and the manner and terms upon which such default may be declared cured; vesting in a trustee such property rights, powers and duties, in trust, as such authority may determine; and such other additional provisions as such authority may deem necessary or desirable for the security of the holders of bonds issued under the provisions of this article, notwithstanding that such other provisions are not expressly enumerated in this section, it being the intention to grant to the authority the power to make any and all covenants or agreements necessary to secure greater marketability of bonds issued under the provisions of this article, as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services, and to grant to such authorities full and complete power to enter into any contract, covenant or agreement with holders of bonds issued under the provisions of this article not inconsistent with this article or the Constitution of this state.

§8-27-16. Sinking fund; West Virginia Municipal Bond Commission; purchase of outstanding bonds.

Before the issuance of any bonds under the provisions of this article, the authority shall, by resolution, provide for a sinking fund for the payment of the bonds and the interest thereon, and the payment of the charges of banking institutions or trust companies for making payment of such bonds and interest, out of the net revenues of said system, and, in this connection, shall set aside and pledge a sufficient amount of the net revenues of the system for such purpose, such net revenues being hereby defined to mean the revenues of the system remaining after the payment of the reasonable expense of administration, maintenance, repair and operation, such amount to be paid by such authority into the sinking fund at intervals, to be determined by resolution adopted prior to the issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all the bonds mature at one time, the proper maintenance of a sinking fund sufficient for the payment thereof at such time; and (d) a margin for safety and for the payment of premium upon bonds retired by call or purchase as provided in this article. Such required payments shall constitute a first charge upon all the net revenues of such authority. Prior to the issuance of any bonds, the authority may, by resolution, be given the right to use or direct the West Virginia Municipal Bond Commission to use such sinking fund, or any part thereof, in the purchase of any of the outstanding bonds payable therefrom, at the market prices thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled, and shall not again be issued. In addition to the payments into the sinking fund provided for above, the authority may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by such authority sufficient for maintenance, repair and operation for an ensuing period of not less than twelve months and for depreciation, into the sinking fund.

The amounts of the balance of the net revenues as and when so set apart shall be remitted to the West Virginia Municipal Bond Commission at such periods as shall be designated in the resolution, but in any event at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this article and the resolution pursuant to which such bonds have been issued. The West Virginia Municipal Bond Commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any resolution adopted pursuant to the provisions of this article and shall invest all sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States or any governmental agency or department thereof may be made by the authority directly thereto.

§8-27-17. Remedies of bondholders.

Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, and the trustee under any trust indenture securing the same, except to the extent the rights herein given may be restricted by such trust indenture, may, by civil action, mandamus or other proceeding, protect and enforce any and all rights under the laws of this state or granted under the provisions of this article or under the resolution authorizing the issuance of such bonds, or the trust indenture securing same, and may enforce and compel the performance of all duties required by the provisions of this article or by such resolution or trust indenture to be performed by any authority or by any officer thereof.

PART VII. PUBLIC SERVICE COMMISSION.

§8-27-18.

Repealed.

Acts, 1976 Reg. Sess., Ch. 85.

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PART VIII. INDEBTEDNESS; EXEMPTION FROM TAXATION.

§8-27-19. Indebtedness of authorities.

Each authority may issue bonds, borrow money and incur any proper indebtedness and issue any other obligations as authorized by law or provided in this article. No such indebtedness or obligation incurred by any authority shall give any right against any member of the governing body of any participating government or any member of the board of any authority. Any obligation or indebtedness of any nature of any authority shall never constitute an obligation or indebtedness of any participating government or the governing body of any participating government, within the meaning of any Constitutional provision or statutory limitation, and shall never constitute or give rise to a pecuniary liability of any participating government or the governing body of any participating government, or be a charge against the general credit or taxing power of any participating government or the governing body of any participating government, and such fact shall be plainly stated on the face of any bonds issued by any authority. The rights of creditors of any authority shall be solely against the authority as a corporate body and shall be satisfied only out of revenues, moneys or property received or held by it in its corporate capacity.

§8-27-20. Exemption from taxation.

It is hereby found, determined and declared that the creation of any authority and the carrying out of its purposes is in all respects for the benefit of the people of this state in general, and of the participating governments in particular, and is a public purpose; and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by the provisions of this article. Accordingly, each authority and, without limitation, its revenues, properties, operations and activities shall be exempt from the payment of any taxes or fees to the state or any of its political subdivisions or to any officer or employee of the state or any of its political subdivisions. Property, real and personal, owned by or leased and used exclusively by each authority shall be public property and therefore exempt from taxation in accordance with section nine, article three, chapter eleven of this code. The revenue bonds or other evidences of indebtedness issued pursuant to the provisions of this article, and the interest thereon, shall be exempt from taxation, except inheritance and transfer taxes.

PART IX. EMPLOYEES OF EXISTING SYSTEMS.

§8-27-21. Protection of employees of existing transportation systems.

Whenever any authority acquires any existing system pursuant to the provisions of this article, the employees of such system shall be protected in the following manner:

- (a) The employees of such system shall be retained to the fullest extent possible consistent with sound management, and if terminated or laid off shall be assured priority of reemployment;
- (b) The individual employees who are retained shall be retained in positions the same as, or no worse than, their positions prior to the acquisition of such system;
- (c) The rights, privileges and benefits of the employees under existing collective bargaining agreements shall not be affected and the owning authority shall assume the duties and obligations of the acquired system under any such agreement;
- (d) Collective bargaining rights shall be continued with respect to employees of any acquired system;
- (e) The rights, privileges and benefits of the employees under any existing pension or retirement plan or plans shall not be affected and the owning authority shall assume the duties and obligations of the acquired system under any such plan or plans;
- (f) The owning authority shall provide paid training or retraining programs when necessary; and
- (g) The authority owning a system, or any of the employees of any system owned by the authority, shall, in the case of any labor dispute relating to the terms and conditions of employment which is not settled through any established grievance procedure, have the right to submit the dispute to final and binding arbitration by a board of arbitration consisting of three arbitrators, one arbitrator to be chosen by the authority, one by the employee and the third to be chosen by the two arbitrators selected by the authority and the employee. A decision of a majority of the members of the board of arbitration shall be final and binding on the parties. The parties shall each pay the arbitrator of its or his own selection, and they shall jointly pay the third arbitrator and any other expenses connected with submitting such labor dispute to the board of arbitration.

In the event any authority acquires a system and (1) leases such acquired system, or (2) enters into a management contract for superintendence and management services for the operation of such acquired system pursuant to any provision of this article, the lease or contract shall include terms and provisions insuring the protection specified in this section.

§8-27-21a. Federal grants; wage deductions.

Notwithstanding any provision of this code to the contrary, the term “deductions”, as defined in §21-5-1 of this code and applied to the wages of an employee of an urban mass transportation authority under this article which is a direct or indirect recipient of federal funding from the Federal Transit Administration pursuant to the Urban Mass Transportation Act of 1964, as amended, includes amounts authorized for union or labor organization dues or fees. This section applies only to urban mass transportation authorities under this article.

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**PART X. CONFLICT OF INTEREST; BIDS; LEGAL
INVESTMENTS; CONSTRUCTION.**

§8-27-22. Conflict of interest.

No member of any authority, nor any of its officers, employees, agents or consultants, shall have any interest in any firm, partnership, corporation, company, association or joint-stock association engaged in the business of providing public transportation in the area encompassed by the authority, or in the manufacture, sale or lease of passenger transportation equipment or facilities. No member of any authority, nor any of its officers, employees, agents or consultants, shall contract with the authority or be interested in, either directly or indirectly, any contract with such authority or in the sale of property, either real or personal, to such authority. The term "agents" as used in this section shall not be deemed for the purposes of this section to include any persons or authorities which lease from or contract for superintendence and management services with any authority for the administration, maintenance, repair or operation of any system.

§8-27-23. Competitive bids; publication of solicitation for sealed bids.

(a) Any contract for the construction of facilities by any authority, when the expenditure required exceeds the sum of \$25,000, shall be based solely on competitive sealed bids.

(b) Except as provided in subsections (c) or (d) of this section, the procurement of all supplies, equipment and materials, where the expenditure required exceeds the sum of \$25,000, shall be based on the competitive procedure that is best suited under the circumstances of the procurement.

(c) In determining the competitive bid procedure that is best suited under the circumstances, an authority shall conduct:

(1) Competitive sealed bidding if:

(A) Time permits a competitive bid process to be used;

(B) The award of the bid will be made primarily on price and price-related factors;

(C) It is likely to be unnecessary to conduct discussions with suppliers regarding bids, including discussions regarding price; and

(D) There is a reasonable expectation of receiving more than one sealed bid; or

(2) Competitive negotiation where competitive sealed bidding is not best suited under the circumstances.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, an authority may provide for the procurement of property or services covered by this section using other than competitive procedures only when:

(1) The property or services needed are available only from one responsible source and no other type of property or service will satisfy the authority's needs;

(2) The authority's need for the property or service is urgent, unusual and compelling because the authority would be seriously injured unless the authority is permitted to limit the number of sources from which it solicits;

(3) It is necessary to award a contract to a particular source or sources in order to maintain a facility, producer, manufacturer or other supplier in case of emergency;

(4) It is necessary to establish or maintain an alternative source or sources of supply for the property or service to increase or maintain competition; or

(5) The authority is using the Federal Transit Administration Third Party Procurement Guidance circular, as may be amended by the Federal Transit Administration, when

spending federal appropriations as a designated recipient of 49 U.S.C. §5307 and 49 U.S.C. §5340 - Urbanized Area Formula Appropriations - to finance its procurements or contracts.

(e) All sealed bids or competitive negotiated proposals received in response to a solicitation or request for bid may be rejected if an authority determines that the action is in the public interest.

(f) Sealed bids shall be opened publicly at the time and place stated in the solicitation and the authority shall evaluate the bids without discussions with bidders and award a contract with reasonable promptness to the responsible source whose bid conforms to the solicitation and is most advantageous to the authority, considering only price and other price-related factors included in the solicitation.

(g) The evaluation of competitive proposals may include written or oral discussions conducted with all responsible bidders or suppliers at any time after receipt of the proposals and before the award or may be made without discussions. In either event, the award shall be made to the lowest responsible bidder or supplier.

(h) Adequate public notice of the solicitation of bids and proposals shall be given. Public notice shall be given not less than seven days before the date set for bid opening or, in the case of competitive negotiation, not less than seven days before the due date for receipt of proposals: Provided, That bids for the construction of facilities shall be obtained by public notice published as a Class I legal advertisement in compliance with §59-3-1 et seq. of this code, with the publication being made at least 14 days before the final date for submitting bids.

§8-27-24. Bonds made legal investments.

Banking institutions, building and loan associations, and insurance companies organized under the laws of this state, may lawfully invest their own funds in bonds issued under the provisions of this article.

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§8-27-25. Article constitutes complete authority; liberal construction.

This article shall constitute full and complete authority for the creation of any authority and for carrying out the powers and duties of any such authority and for the issuance, sale or exchange of revenue bonds by such authority as provided in this article. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals shall be required in connection therewith except as may be prescribed by this article.

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PART XI. DISSOLUTION OF AUTHORITY; WORKERS' COMPENSATION.

§8-27-26. Dissolution of authority; disposition of assets after payment of debts.

In the event full and adequate provision is made for the payment of all of the debts of an authority, the participating municipalities or counties or any combination thereof which have contributed at least sixty percent of the total value of all moneys and property (the value of which property is determined as specified in section five of this article) contributed to the authority by the participating municipalities and counties may by resolution provide for the dissolution of the authority and for (1) the conveyance of the real and tangible personal property contributed to it to those participating municipalities and counties which contributed the same, (2) equitable distribution among the contributing municipalities and counties of any real and tangible personal property purchased or condemned by the authority or of the proceeds of sale thereof, or the fair value thereof, and (3) the equitable distribution of all moneys on hand to the participating municipalities and counties in direct proportion to the contribution of moneys by them.

§8-27-27. Employees to be covered by workers' compensation.

All eligible employees of any authority shall be considered to be within the workers' compensation statute of this state and premiums on their compensation shall be paid by the authority as required by law.

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