

Rec., May 15

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ENROLLED BILL

(EXTRAORDINARY SESSION, 1933)

House Bill No. 29

(By Mr. Smith, of Harrison)

Passed May 11, 1933

In Effect from Passage

Originated in the..... passage

Takes effect.....

Clerk of the House of Delegates.

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Clerk.

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Chairman House Committee.

ENROLLED BILL

(H. B. No. 29)

[Passed May 11, 1933; in effect from passage.]

AN ACT to authorize municipal corporations and/or sanitary districts to construct, own, equip, operate, maintain and improve works for the collection and/or treatment, purification and disposal of sewage; to authorize charges against owners of premises for the use of such works and to provide for the collection of same; to authorize municipal corporations and/or sanitary districts to issue revenue bonds payable solely from the revenues of such works and to make such bonds exempt from taxation; to authorize contracts for the use of such works by other municipal corporations and political subdivisions, and charges against owners of premises therein served thereby and a lien against such premises.

Be it enacted by the Legislature of West Virginia:

Section 1. That any municipal corporation and/or sanitary

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2 district in the state of West Virginia is hereby authorized and
3 empowered to own, acquire, construct, equip, operate and main-
4 tain within and/or without the corporate limits of such munici-
5 pal corporation, a sewage collection system and/or a sewage
6 treatment plant or plants, intercepting sewers, outfall sewers,
7 force mains, pumping stations, ejector stations, and all other
8 appurtenances necessary or useful and convenient for the collec-
9 tion and/or treatment, purification and disposal, in a sanitary
10 manner, of the liquid and solid waste, sewage, night soil and
11 industrial waste of such municipal corporation and/or sani-
12 tary district, and shall have authority to acquire by gift, grant,
13 purchase, condemnation, or otherwise, all necessary lands,
14 rights-of-way and property therefor, within and/or without
15 the corporate limits of such municipal corporation and/or sani-
16 tary district, and to issue revenue bonds to pay the cost of such
17 works and property. No obligation shall be incurred by the
18 municipal corporation and/or sanitary district in such construc-
19 tion or acquisition except such as is payable solely from the
20 funds provided under the authority of this act.

Sec. 2. The construction, acquisition, improvement, equip-
2 ment, custody, operation and maintenance of any such works for

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3 the collection, treatment or disposal of sewage and the collec-
3-a tion of revenues therefrom for the service rendered
4 thereby, shall be under the supervision and control of a sanitary
5 board appointed by the governing body as set forth in section
6 eighteen of this act. The term "works" as used in this act shall
7 be construed to mean and include a works for the collection
8 and/or treatment, purification and disposal of sewage, in its en-
9 tirety or any integral part thereof. The term "municipality"
10 as used in this act shall be construed to mean any municipal
11 corporation, incorporated city, town, village or sanitary district
12 in the state of West Virginia. The term "governing body" as used
13 in this act shall be construed to mean the mayor and council or
14 other legally constituted governing body of any municipality.
15 The term "board" when hereinafter used in this act shall be con-
16 strued to mean the sanitary board as set up in section eighteen
17 of this act.

Sec. 3. The board shall have power to take all steps and pro-
2 ceedings and to make and enter into all contracts or agreements
3 necessary or incidental to the performance of its duties and the
4 execution of its powers under this act: *Provided*, That any
5 contract relating to the financing of the acquisition or construc-

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tion of any such works, or any trust indenture as hereinafter
provided for, shall be approved by the governing body of such
municipality before the same shall be effective. The board may
employ engineers, architects, inspectors, superintendents, man-
ager, collectors, attorneys, and such other employees as in its
judgment may be necessary in the execution of its powers and
duties, and may fix their compensation, all of whom shall do
such work as the board shall direct. All such compensation and
all expenses incurred in carrying out the provisions of this act
shall be paid solely from funds provided under the authority of
this act, and the board shall not exercise or carry out any author-
ity or power herein given it so as to bind said board or said
municipality beyond the extent to which money shall have been
or may be provided under the authority of this act. No con-
tract or agreement with any contractor or contractors for labor
and/or material, exceeding in amount the sum of one thousand
dollars, shall be made without advertising for bids, which bids
shall be publicly opened and award made to the best bidder,
with power in the board to reject any or all bids. After the
construction, installation, and completion of the works, or the
acquisition thereof, the board shall operate, manage and con-

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27 trol the same and may order and complete any extensions, better-
28 ments and improvements of and to the works that the board may
29 deem expedient, if funds therefor be available or are made avail-
30 able as provided in this act, and shall establish rules and regu-
31 lations for the use and operation of the works, and of other
32 sewers and drains connected therewith so far as they may affect
33 the operation of such works, and do all things necessary or
34 expedient for the successful operation thereof. All public
35 ways or public works damaged or destroyed by the board in
36 carrying out its authority under this act shall be restored or re-
37 paired by the board and placed in their original condition, as
38 nearly as practicable, if requested so to do by proper authority,
39 out of the funds provided by this act.

Sec. 4. All necessary preliminary expenses actually incurred
2 by the board of any municipality in the making of surveys,
3 estimates of costs and of revenue, employment of engineers or
4 other employees, the giving of notices, taking of options and
5 all other expenses of whatsoever nature, necessary to be paid
6 prior to the issue and delivery of the revenue bonds pursuant
7 to the provisions of this act, may be met and paid in the fol-
8 lowing manner. Said board may from time to time certify such

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9 items of expense to the clerk or recorder of said municipality,
10 directing him to pay the several amounts thereof, and thereupon
11 said clerk or recorder shall at once draw a warrant or warrants
12 upon the treasurer of said municipality, which warrant or war-
13 rants shall be paid out of the general funds of said municipality
14 not otherwise appropriated, without a special appropriation being
15 made therefor by the governing body; or, in case there are no
16 general funds of such municipality not otherwise appropriated,
17 the clerk or recorder shall recommend to the governing body
18 ~~the~~ the temporary transfer from other funds of such municipality
19 of a sufficient amount to meet such items of expense, or the mak-
20 ing of a temporary loan for such purpose, and such governing
21 body shall thereupon at once make such transfer of funds, or
22 authorize such temporary loan in the same manner that other
23 temporary loans are made by such municipality: *Provided, how-*
24 *ever,* That the fund or funds of such municipality from which
25 such payments are made shall be fully reimbursed and repaid
26 by said board out of the first proceeds of the sale of revenue
27 bonds hereinafter provided for, and before any other disburse-
28 ments are made therefrom, and the amount so advanced to pay
such preliminary expenses, shall be a first charge against the

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29 proceeds resulting from the sale of such revenue bonds until
30 the same has been repaid as herein provided.

Sec. 5. Before any municipality shall construct or acquire
2 any works under this act, the governing body shall upon petition
3 of the board, enact an ordinance or ordinances which shall: (a)
4 Set forth a brief and general description of the works and, if
5 the same are to be constructed, a reference to the preliminary
6 report which shall heretofore have been prepared and filed by
7 an engineer chosen by the board as aforesaid; (b) set forth
8 the cost thereof estimated by the engineer chosen as aforesaid;
9 (c) order the construction or acquisition of such works; (d)
10 direct that revenue bonds of the municipality shall be issued
11 pursuant to this act in such an amount as may be found neces-
12 sary to pay the cost of the works; and (e) contain such other pro-
13 visions as may be necessary in the premises.

Sec. 6. After such ordinance shall have been adopted same
2 shall be published once each week for two successive weeks in
3 two newspapers of opposite political faith published in such
4 municipality, or in one newspaper if only one political faith
5 is represented by newspapers in the said municipality, or if
6 there be no newspaper so published, then such ordinance shall

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7 be posted in at least three public places therein, with a notice
8 to all persons concerned stating that said ordinance has been
9 adopted, and that the municipality contemplates the issuance
10 of the bonds described in the ordinance, and that any person
11 interested may appear before the governing body upon a cer-
12 tain date which shall not be less than ten days subsequent to
13 the publication or posting of such ordinance and notice, and
14 present protests. At such hearing all objections and suggestions
15 shall be heard and the governing body shall take such action as
16 it shall deem proper in the premises: *Provided, however,* That
17 if at such a hearing written protest is filed by thirty per cent
18 or more of the owners of real estate situate in said municipality,
19 then the governing body of said municipality shall not take fur-
20 ther action unless four-fifths of the qualified members of the
21 said governing body assent thereto.

Sec. 7. Every such municipality shall have power to con-
2 demn any such works to be acquired and any land, rights, ease-
3 ments, franchises and other property, real or personal, deemed
4 necessary or convenient for the construction of any such works,
5 or for extensions, improvements, or additions thereto, and in con-
6 nection therewith may have and exercise all the rights, powers

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7 and privileges of eminent domain granted to municipal corpo-
8 rations under the laws relating thereto. Title to property
9 condemned shall be taken in the name of the municipality. Pro-
10 ceedings for such appropriation of property shall be under and
11 pursuant to the provisions of chapter fifty-four, of the code of
12 West Virginia, one thousand nine hundred thirty-one, and acts
13 amendatory and supplemental thereto: *Provided*, That the
14 municipality shall be under no obligation to accept and pay for
15 any property condemned, and shall in no event pay for any
16 property condemned or purchased, except from the funds pro-
17 vided pursuant to this act; and in any proceedings to condemn,
18 such orders may be made as may be just to the municipality
19 and to the owners of the property to be condemned, and an
20 undertaking or other security may be required securing such
21 owners against any loss or damage to be sustained by reason
22 of the failure of the municipality to accept and pay for the
23 property, but such undertaking or security shall impose no li-
24 ability upon the municipality except such as may be paid from
25 the funds provided under the authority of this act. In event of
26 the acquisition by purchase the board may obtain and exercise
27 an option from the owner or owners of said property for the

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28 purchase thereof, or may enter into a contract for the purchase
29 thereof, and such purchase may be made upon such terms and
30 conditions, and in such manner as the board may deem proper.
31 In event of the acquisition of any works already constructed by
32 purchase or condemnation, the board at or before the time of
33 the adoption of the ordinance described in section five hereof,
34 shall cause to be determined what repairs, replacements, ad-
35 ditions, and betterments will be necessary in order that such
36 works may be effective for their purpose, and an estimate of
37 the cost of such improvements shall be included in the estimate
38 of cost required by section five hereof, and such improvement
39 shall be made upon the acquisition of the works and as a part
40 of the cost thereof.

Sec. 8. The cost of the works shall be deemed to include the
2 cost of acquisition or construction thereof, the cost of all prop-
3 erty, rights, easements, and franchises deemed necessary or
4 convenient therefor and for the improvements determined upon
5 as provided in this act; interest upon bonds prior to and during
6 construction or acquisition and for six months after completion
7 of construction or of acquisition of the improvement last men-
8 tioned; engineering and legal expenses; expense for estimates

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9 of cost and of revenues; expenses for plans, specifications and
10 surveys; other expenses necessary or incident to determining
11 the feasibility or practicability of the enterprise, administrative
12 expense, and such other expenses as may be necessary or inci-
13 dent to the financing herein authorized and the construction or
14 acquisition of the works and the placing of the works in oper-
15 ation and the performance of the things herein required or per-
16 mitted in connection with any thereof.

Sec. 9. Nothing in this act contained shall be so construed as
2 to authorize or permit any municipality to make any contract or
3 to incur any obligation of any kind or nature except such as shall
4 be payable solely from the funds provided under this act. Funds
5 for the payment of the entire cost of the works shall be pro-
6 vided by the issuance of revenue bonds of the municipality, the
7 principal and interest of which shall be payable solely from the
8 fund herein provided for such payment, and said bonds shall
9 not, in any respect, be a corporate indebtedness of such munici-
10 pality, within the meaning of any statutory or constitutional limi-
11 tations thereon. All the details of such bonds shall be determined
12 by ordinance or ordinances of the municipality.

Sec. 10. Such revenue bonds shall bear interest at not more

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2 than six per cent per annum, payable annually or at shorter
3 intervals, and shall mature at such time or times as may be de-
4 termined by ordinance. Such bonds may be made redeemable
5 before maturity at the option of the municipality, to be exer-
6 cised by said board, at not more than the par value thereof and
7 a premium of five per cent, under such terms and conditions as
8 may be fixed by the ordinance authorizing the issuance of the
9 bonds. The principal and interest of the bonds may be made
10 payable in any lawful medium. Said ordinance shall determine
11 the form of the bonds, including the interest coupons to be at-
12 tached thereto, and shall fix the denomination or denominations
13 of such bonds and the place or places of payment of the prin-
14 cipal and interest thereof, which may be at any bank or trust
15 company within or without the state. The bonds shall contain
16 a statement on their face that the municipality shall not be
17 obligated to pay the same or the interest thereon except from the
18 special fund provided from the net revenues of the work. All
19-20 such bonds shall be, and shall have and are hereby declared
21 to have all the qualities and incidents of, negotiable instruments
22 under the negotiable instruments law of the state. Said bonds
23 shall be exempt from all taxation, state, county and municipal.

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24 Provisions may be made for the registration of any of the bonds
25 in the name of the owner as to principal alone. Such bonds
26 shall be executed by the proper legally constituted authorities
27 of the municipality and be sealed with the corporate seal of the
28 municipality, and in case any of the officers whose signatures
29 appear on the bonds or coupons shall cease to be such officers,
30 before delivery of such bonds, such signatures shall nevertheless
31 be valid and sufficient for all purposes the same as if they had
32 remained in office until such delivery. Said bonds shall be sold
33 at not less than ninety cents on the dollar and the proceeds
34 derived therefrom shall be used exclusively for the purposes
35 for which said bonds are issued and same may be sold at one
36 time or in parcels as funds are needed. Any surplus of bond
37 proceeds over and above the cost of the works shall be paid
38 into the sinking fund hereinafter provided. If the proceeds
39 of the bonds, by error of calculation or otherwise, shall be less
40 than the cost of the works, additional bonds may in like manner
41 be issued to provide the amount of such deficit and, unless other-
42 wise provided in said ordinance authorizing the issuance of the
43 bonds first issued or in the trust indenture hereinafter author-
44 ized, shall be deemed to be of the same issue and shall be en-

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45 titled to payment, without preference or priority of the bonds
46 first issued. Prior to the preparation of the definite bonds,
47 temporary bonds may under like restrictions be issued with or
48 without coupons, exchangeable for definite bonds upon the is-
49 suance of the latter.

Sec. 11. The governing body may provide by said ordinance
2 authorizing the issuance of the bonds or in the trust indenture
3 hereinafter referred to, that additional bonds may thereafter
4 be authorized and issued, at one time or from time to time under
5 such limitations and restrictions as may be set forth in said
6 ordinance and/or trust indenture, for the purpose of extending,
7 improving or bettering the works when deemed necessary in
8 the public interest, such additional bonds to be secured and be
9 payable from the revenues of the works equally with all other
10 bonds issued pursuant to said ordinance without preference or
11 distinction between any one bond and any other definite bonds
12 upon the issuance of the latter.

Sec. 12. The governing body may provide by said ordinance
2 authorizing the issuance of the bonds or in the trust indenture
3 hereinafter referred to, that additional bonds may thereafter be
4 authorized and issued, at one time or from time to time, under

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5 such limitations and restrictions as may be set forth in said
6 ordinance and/or trust indenture, for the purpose of extending,
7 improving or bettering the works when deemed necessary in
8 the public interest, such additional bonds to be secured and be
9 payable from the revenues of the works equally with all other
10 bonds issued pursuant to said ordinance without preference or
11 distinction between any one bond and any other bond by reason
12 of priority of issuance or otherwise.

Sec. 13. All moneys received from any bonds issued pursuant
2 to this act, after reimbursements and repayment to said munici-
3 pality of all amounts advanced for preliminary expenses as
4 provided in section four of this act, shall be applied solely to the
5 payment of the cost of the work, extensions, improvements or
6 betterments, or to the appurtenant sinking fund and there shall
7 be and hereby is created and granted a lien upon such moneys,
8 until so applied, in favor of the holders of the bonds or the trus-
9 tees hereinafter provided for.

Sec. 14. In the discretion of the governing body such bonds
2 may be secured by a trust indenture by and between the munici-
3 pality and a corporate trustee, which may be any trust company
4 or bank having the powers of a trust company within the state

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5 of West Virginia but no such trust indenture shall convey or
6 mortgage the works or any part thereof. The ordinance author-
7 izing the revenue bonds and fixing the details thereof may pro-
8 vide that such trust indenture may contain such provisions for
9 protecting and enforcing the rights and remedies of the bond
10 holders as may be reasonable and proper, not in violation of law,
11 including covenants setting forth the duties of the municipality
12 and the board in relation to the construction or acquisition of
13 the works and the improvement, operation, repair, maintenance
14 and insurance thereof, and the custody, safeguarding and
15 application of all moneys, and may provide that the works
16 shall be contracted for, constructed and paid for under the
17 supervision and approval of consulting engineers employed or
18 designated by the board and satisfactory to the original bond
19 purchasers, successors, assigns or nominees, who may be given
20 the right to require the security given by contractors and by
21 any depository of the proceeds of bonds or revenues of the works
22 or other moneys pertaining thereto be satisfactory to such pur-
23 chasers, successors, assigns or nominees. Such indenture may
24 set forth the rights and remedies of the bondholders and/or
25 such trustee, restricting the individual right of action of bond-

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26 holders as is customary in trust indentures securing bonds and
27 debentures of corporations. Except as in this act otherwise pro-
28 vided, the governing body may provide by ordinance or in such
29 trust indenture for the payment of the proceeds of the sale of
30 the bonds and the revenues of the works to such officer, board
31 or depository as it may determine for the custody thereof, and
32 for the method of disbursement thereof, with such safeguards
33 and restrictions as it may determine.

Sec. 15. At or before the issuance of any such bonds the gov-
2 erning body shall by said ordinance create a sinking fund for the
3 payment of the bonds and the interest thereon and the payment
4 of the charges of banks or trust companies for making payment
5 of such bonds or interest, and shall set aside and pledge a suf-
6 ficient amount of the net revenues of the works, hereby defined
7 to mean the revenues of the works remaining after the payment
8 of the reasonable expense of operation, repair and maintenance
9 such amount to be paid by the board into said sinking fund at
10 intervals to be determined by ordinance prior to issuance of the
11 bonds for: (a) the interest upon such bonds as such interest shall
12 fall due; and (b) the necessary fiscal agency charges for paying
13 bonds and interest; (c) the payment of the bonds as they fall due,

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14 or, if all bonds mature at one time, the proper maintenance of a
15 sinking fund sufficient for the payment thereof at such time; and
16 (d) a margin for safety and for the payment of premiums upon
17 bonds retired by call or purchase as herein provided, which mar-
18 gin, together with any unused surplus of such margin carried
18-a forward from the preceding year, shall equal ten per cent of all
19 other amounts so required to be paid into the sinking fund. Such
20 required payments shall constitute a first charge upon all the
21 net revenues of the works. Prior to the issuance of the bonds the
22 board may by ordinance be given the right to use or direct the
23 trustee to use such sinking fund or any part thereof in the pur-
24 chase of any of the outstanding bonds payable therefrom at the
25 market price thereof, but not exceeding the price, if any, at
26 which the same shall in the same year be payable or redeemable
27 and all bonds redeemed or purchased shall forthwith be can-
28 celled and shall not again be issued. After the payments into
29 the sinking fund as herein required, the board may at any time
30 in its discretion transfer all or any part of the balance of the net
31 revenues, after reserving an amount deemed by the board suf-
32 ficient for operation, repair and maintenance for an ensuing
33 period of not less than twelve months and for depreciation, into

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34 the sinking fund or into a fund for extensions, betterments and
35 additions to the works.

Sec. 16. The governing body shall have power, and it shall be
2 its duty, by ordinance to establish and maintain just and equit-
3 able rates or charges for the use of and the service rendered by
4 such works, to be paid by the owner of each and every lot, parcel
5 of real estate or building that is connected with and uses such
6 works by or through any part of the sewerage system of the
7 municipality, or that in any way uses or is served by such works
8 and may change and readjust such rates or charges from time to
9 time. Such rates or charges shall be sufficient in each year for
10 the payment of the proper and reasonable expense of operation,
11 repair, replacements and maintenance of the works and for the
12 payment of the sums herein required to be paid into the sink-
13 ing fund. Revenues collected pursuant to this section shall be
14 deemed the revenues of the works. No such rates or charges
15 shall be established until after a public hearing, at which all
16 the users of the works and owners of property served or to be
17 served thereby and others interested shall have an opportunity
18 to be heard concerning the proposed rates or charges. After
19 introduction of the ordinance fixing such rates or charges, and

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20 before the same is finally enacted, notice of such hearing, setting
21 forth the proposed schedule of such rates or charges, shall be
22 given by one publication one each week for two successive weeks
23 in two newspapers of opposite political faith published in such
24 municipality, or in one newspaper if only one political faith is
25 represented by newspapers in the said municipality, at least ten
26 days before the date fixed in such notice for the hearing, which may be
26-a adjourned from time to time. After such hearing the ordinance
27 establishing rates or charges, either as originally introduced or
28 as modified and amended, shall be passed and put into effect. A
29 copy of the schedule of such rates and charges so established
30 shall be kept on file in the office of the board having charge of the
31 operation of such works, and also in the office of the clerk of the
32 municipality, and shall be open to inspection by all parties in-
33 terested. The rates or charges so established for any class of
34 users or property served shall be extended to cover any addi-
35 tional premises thereafter served which fall within the same
36 class, without the necessity of any hearing or notice. Any
37 change or readjustment of such rates or charges may be made
38 in the same manner as such rates or charges were originally
39 established as hereinbefore provided: *Provided, however,* That

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40 if such change or readjustment be made substantially pro rata
41 as to all classes of service, no hearing or notice shall be required.
42 The aggregate of the rates or charges shall always be sufficient
43 for such expense of operation, repair, and maintenance and for
44 such sinking fund payments. All such rates or charges if not
45 paid when due shall constitute a lien upon the premises served
46 by such works. If any service rate or charge so established shall
47 not be paid within thirty days after the same is due, the amount
48 thereof, together with a penalty of ten per cent, and a reason-
49 able attorney's fee, may be recovered by the board in a civil
50 action in the name of the municipality, and in connection with
51 such action said lien may be foreclosed against such lot, parcel
52 of land or building, in accordance with the laws relating thereto.

Sec. 17. The municipality shall be subject to the same charges
2 and rates established as hereinbefore provided, or to charges and
3 rates established in harmony therewith, for service rendered the
4 municipality, and shall pay such rates or charges when due from
5 corporate funds and the same shall be deemed to be a part of the
6 revenues of the works as herein defined, and be applied as herein
7 provided for the application of such revenues.

Sec. 18. The governing body shall provide by ordinance that

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2 the custody, administration, operation and maintenance of such
3 works shall be under the supervision and control of a sanitary
4 board, created as herein provided. Such sanitary board shall
5 be composed of the mayor of the municipality and two persons
6 appointed by the governing body, one of which must be a regis-
7 tered professional engineer. The engineer member of the board
8 need not be a resident of said municipality. No officer or em-
9 ployee of the municipality whether holding a paid or unpaid
10 office, shall be eligible to appointment on said sanitary board
11 until at least one year after the expiration of the term of his
12 public office. Said appointees shall originally be appointed
13 for terms of two and three years respectively, and upon the ex-
14 piration of each such term and each succeeding term, an appoint-
15 ment of a successor shall be made in like manner for a term of
16 three years. Vacancies shall be filled for an unexpired term in the
17 same manner as the original appointment. Each member shall
18 give such bond, if any, as may be required by ordinance. Such
19 mayor shall act as chairman of the sanitary board, which shall
20 select a vice chairman from its members and shall designate a
21 secretary and treasurer (but the secretary and the treasurer
22 may be one and the same), who need not be a member or mem-

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23 bers of the sanitary board. The vice chairman, secretary and
24 treasurer shall hold office as such at the will of the sanitary
25 board. The members of the sanitary board shall receive such
26 compensation for their services, either as a salary or as pay-
27 ments for meetings attended, as the governing body may de-
28 termine, not in excess of twenty-five dollars per month for each
29 member, and shall be entitled to payment for their reasonable
30 expenses incurred in the performance of their duties. The gov-
31 erning body shall fix the reasonable compensation of the secre-
32 tary and treasurer in its discretion, and shall fix the amount of
33 bond to be given by the treasurer. All compensation, together
34 with the expenses in this section referred to, shall be paid solely
35 from funds provided under the authority of this act. The
36 sanitary board shall have power to establish by-laws, rules and
37 regulations for its own government.

Sec. 19. Any municipality operating a sewage collection
2 system and/or a sewage disposal plant or plants as defined in
3 this act, or which as herein provided has ordered the con-
4 struction or acquisition of such works (in this section called
5 the owner), is hereby authorized to contract with one or more
6 other municipal^p corporations or political subdivisions within

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7 the state (in this section called the lessee), and such lessees
8 are hereby authorized to enter into such contracts with such
9 owners, for the service of such works to such lessees and their
10 inhabitants, but only to the extent of the capacity of the works
11 without impairing the usefulness thereof to the owners, upon
12 such terms and conditions as may be fixed by the boards and ap-
13 proved by ordinances of the respective contracting parties:
14 *Provided, however,* That no such contract shall be made for
15 a period of more than fifteen years or in violation of the pro-
16 visions of said ordinance authorizing bonds hereunder or in
17 violation of the provisions of said trust indenture. The lessee
18 shall by ordinance have power to establish, change and adjust
19 rates and charges for the service rendered therein by the works
20 against the owners of the premises served, in the manner here-
21 inbefore provided for establishing, changing and adjusting
22 rates and charges for the service rendered in the municipality
23 where the works are owned and operated, and such rates or
24 charges shall be collectible and shall be a lien as herein pro-
25 vided for rates and charges made by the owner. The neces-
26 sary intercepting sewers and appurtenant works for connect-
27 ing the works of the owner with the sewerage system of the lessee

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28 shall be constructed by the owner and/or the lessee upon such
29 terms and conditions as may be set forth in said contract, and
30 the cost or that part of the cost thereof which is to be borne by
31 the owner may be paid as a part of the cost of the works from
32 the proceeds of bonds issued under this act unless otherwise
33 provided by said ordinance or trust indenture prior to the is-
34 suance of the bonds. The income received by the owner under
35 any such contract shall, if so provided in said ordinance or
36 trust indenture, be deemed to be a part of the revenues of the
37 works as in this act defined and be applied as herein provided
38 for the application of such revenues.

Sec. 20. No property shall be acquired under this act upon
2 which any lien or other encumbrance exists, unless at the time
3 such property is acquired a sufficient sum of money be de-
4 posited in trust to pay and redeem such lien or encumbrance
5 in full.

Sec. 21. Any holder of any such certificates or any of the
2 coupons attached thereto, and the trustee, if any, except to the
3 extent the rights herein given may be restricted by said ordi-
4 nance authorizing issuance of the bonds or by the trust inden-
5 ture, may either at law or in equity, by suit, action, mandamus

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6 or other proceeding protect and enforce any and all rights
7 granted hereunder or under such ordinance or trust indenture,
8 and may enforce and compel performance of all duties re-
9 quired by this act or by such ordinance or trust indenture to
10 be performed by the municipality issuing the bonds or by the
11 board or any officer, including the making and collecting of
12 reasonable and sufficient charges and rates for service rendered
13 by the works. If there be any failure to pay the principal or
14 interest of any of the bonds on the date therein named for
15 such payment, any court having jurisdiction of the action may
16 appoint a receiver to administer the works on behalf of the
17 municipality and the bondholders and/or trustee, except as
18 so restricted, with power to charge and collect rates sufficient
19 to provide for the payment of the expenses of operation, re-
20 pair and maintenance and also to pay any bonds and interest
21 outstanding and to apply the revenues in conformity with
22 this act and the said ordinance and/or trust indenture.

Sec. 22. The authority herein given shall be in addition to
2 and not in derogation of any power existing in any munici-
3 pality under any statutory or charter provisions which it may
4 now have or hereafter adopt. For all purposes of this act,

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5 all municipal corporations shall have jurisdiction for ten miles
6 outside the corporate limits thereof.

Sec. 23. This act, shall, without reference to any other
2 statute, be deemed full authority for the construction, acqui-
3 tion, improvement, equipment, maintenance, operation and
4 repair of the works herein provided for and for the issuance
5 and sale of the bonds by this act authorized, and shall be con-
6 strued as an additional and alternative method therefor and
7 for the financing thereof, and no petition or election or other
8 or further proceeding in respect to the construction or acqui-
9 sition of the works or to the issuance or sale of bonds under
10 this act and no publication of any resolution, ordinance, notice
11 or proceeding relating to such construction or acquisition or to
12 the issuance or sale of such bonds shall be required except such
13 as are prescribed by this act, any provisions of other statutes
14 of the state to the contrary notwithstanding: *Provided, how-*
15 *ever,* That all functions, powers and duties of the state de-
16 partment of health shall remain unaffected by this act.

Sec. 24. This act being necessary for the public health,
2 safety and welfare, it shall be liberally construed to effectuate
3 the purpose thereof.

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A. H. H. H. H.

Chairman Senate Committee.

Sec. 25. The sections and provisions of this act are separable
2 and are not matters of mutual essential inducement, and it is
3 the intention to confer the whole or any part of the powers
4 herein provided for, and if any of the sections or provisions or
5 parts thereof is for any reason illegal, it is the intention that
6 the remaining sections and provisions or parts thereof shall
7 remain in full force and effect.

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James A. Hoge
Chairman Senate Committee

Wm. H. Hoge
Speaker of the House of Delegates.

Geo. L. Hoge
Clerk of the House of Delegates.

Wm. H. Hoge
President of the Senate.

Wm. H. Hoge
Clerk of the Senate.

James A. Hoge
Chairman House Committee

The within is... *approved*

this... *19*... day of... *May*..., 1933.

Wm. H. Hoge
Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAY 20 1933**
Wm. S. O'BRIEN,
Secretary of State