

Rec., May 15

22

ENROLLED BILL

(EXTRAORDINARY SESSION, 1933)

House Bill No. 30

(By Mr. Smith, of Harrison)

Passed May 11 1933

In Effect from Passage

Originated in the.....*House*.....Takes effect.....*June*.....passage

Woodhall
Clerk of the House of Delegates.

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Geo Steel
Clerk.

James A. Smith
Chairman Senate Committee.

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Chairman House Committee.

ENROLLED BILL

(H. B. No. 30)

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

AN ACT providing for the incorporation of sanitary districts and granting certain powers thereto.

Be it enacted by the Legislature of West Virginia:

Section 1. That whenever any area of contiguous territory
2 shall contain one or more incorporated cities, towns and/or vil-
3 lages, and shall be so situated that the construction and mainte-
4 nance of a plant or plants for the purification and treatment of
5 sewage and the maintenance of one or more outlets for the
6 drainage thereof, after having been so treated and purified by
7 and through such plant or plants will conduce to the preserva-
8 tion of the public health, comfort and convenience, the same
9 may be incorporated as a sanitary district under this act in the
10 manner following, to-wit:

11 Any four hundred legal voters, resident within the limits of

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12 such proposed sanitary district, may petition the county court
13 of the county in which the proposed sanitary district, or the
14 major portion thereof, is located, to cause the question to be
15 submitted to the legal voters of such proposed sanitary district,
16 whether such proposed territory shall be organized as a sani-
17 tary district under this act; such petition shall be addressed to
18 the county court and shall contain a definite description of the
19 boundaries of the territory to be embraced in the such sanitary
20 district, and the name of such proposed sanitary district: *Pro-*
21 *vided, however,* That no territory shall be included within more
22 than one sanitary district organized under this act.

23 Notice shall be given by such county court within ten days
24 after receiving the petition, of the time and place when a hear-
25 ing on the petition for a sanitary district will be held, by publi-
26 cation inserted once each week in two newspapers of opposite
26-a political faith published in such proposed sanitary district, or
26-b in one newspaper if only one political faith is represented by
27 newspapers in such proposed sanitary district, at least twenty
28 days prior to such meeting, and if no such newspaper is published
29 in such proposed sanitary district, then by posting at least five
30 copies of such notice in such proposed sanitary district at least

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3

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31 twenty days before such hearing: *Provided, however,* That the
32 hearing on the petition for a sanitary district shall be held not
33 later than thirty days after the county court receives the said
34 petition. At such hearing the president of the county court
35 shall preside, and all persons resident within the limits of such
36 proposed sanitary district shall have an opportunity to be heard
37 upon the question of the location and boundary of such pro-
38 posed sanitary district, and to make suggestions regarding the
39 same, and the said county court, after hearing statements, evi-
40 dence and suggestions, shall fix and determine the limits and
41 boundaries of such proposed sanitary district as stated in the
42 original petition, unless by a vote of the majority of the legal
43 voters resident within the limits of such proposed sanitary dis-
44 trict, present at the said hearing, it should be decided to alter
45 and amend such petition to change and redetermine the limits
46 and boundaries of such proposed sanitary district.

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47 After such determination by the county court, the same shall
48 be incorporated in an order which shall be spread at length
49 upon the records of the county court. Upon the entering of
50 such order, the county court shall submit to the legal voters of
51 the proposed sanitary district, the question of organization and

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52 establishment of the proposed sanitary district as determined
53 by said county court, at a special election, to be held within
54 sixty days after the entering of such order, notice whereof shall
55 be given by the county court at least twenty days prior thereto
56 by publication once each week for two successive weeks in two
56-a newspapers of opposite political faith published in such sani-
56-b tary district, or in one newspaper if only one political faith is
57 represented by newspapers in the said sanitary district, or if no
58 daily or weekly newspaper is published in such proposed sanitary
59 district, then by posting at least five copies of such notice in said
60 sanitary district at least twenty days before such election.
61 Such notice to specify briefly the purpose of such election, with
62 a description of such proposed sanitary district, and the time
63 and place for holding such election.

64 Each legal voter resident within such proposed sanitary dis-
65 trict shall have the right to cast a ballot at such election. Bal-
66 lots at elections held under this section shall be in substantially
67 the following form, to-wit:

68 ☐ For sanitary district.

69 ☐ Against sanitary district.

70 The ballots so cast shall be issued, received, returned and

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5

71 canvassed in the same manner and by the same officers as is
72 provided by law in the case of ballots cast for county officers,
73 except as herein modified. The county court shall cause a state-
74 ment of the result of such election to be spread on the records
75 of the county court. If a majority of the votes cast upon the
76 question of the incorporation of the proposed sanitary district
77 shall be in favor of the proposed sanitary district, such pro-
78 posed sanitary district shall thenceforth be deemed an organ-
79 ized sanitary district under this act. All courts in this state
80 shall take judicial notice of the existence of all sanitary dis-
81 tricts organized under this act.

82 The expenses of holding said special election shall be paid
83 by the county court of said county, in which said proposed
84 sanitary district, or the major portion thereof, is located, out of
85 the general funds of said county: *Provided, however,* That in
86 the event such sanitary district is established and incorporated
87 under this act, then said sanitary district shall repay to said
88 county the expenses incurred in holding said special election
89 within two years from the date of incorporating such sanitary
90 district.

Sec. 2. The county court of the county in which the said

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2 district or a major portion thereof is located, shall, by and with
3 the approval of the majority of the council of the municipality
4 situate within the said sanitary district, which at the last official
5 census was shown to have the largest population, and within a
6 period of twenty days after the adoption of said act, appoint
7 a board of trustees, consisting of three members, who shall be
8 residents and qualified voters in said district, for the govern-
9 ment, control and management of the affairs and business of
10 each sanitary district organized under this act. The trustees
11 shall hold their office respectively for one, two and three years,
12 from the first Monday of May next after their appointment and
13 until their successors are appointed and have qualified, and
14 thereafter on or before the second Monday in April of each
15 year the said county court by and with the approval of the
16 majority of the council of the municipality situate within the
17 said sanitary district, which at the last official census was shown
18 to have the largest population, shall appoint one trustee whose
19 term shall be for three years commencing the first Monday in
20 May of the year in which they are respectively appointed. The
21 length of the term of the first trustees shall be determined by
22 lot at their first meeting.

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7

23 Said county court shall require each of said trustees to enter
24 into bond, with security to be approved by such county court,
25 in such sum as said county court may determine.

26 Whenever a vacancy in said board of trustees shall occur,
27 either from death, resignation, refusal to qualify, or for any
28 other reason, the county court by and with the approval of the
29 majority of the council of the municipality situate within the
30 said sanitary district, which at the last official census was shown
31 to have the largest population, shall have power to fill such
32 vacancy by appointment; and such person so appointed shall
33 qualify for office in the manner hereinbefore stated and shall
34 thereupon assume the duties of the office for the unexpired
35 term to which such person was appointed: *Provided, however,*
36 That the membership of the board of trustees shall at all times
37 consist of two members who shall be residents and qualified
38 voters of the municipality situate within the said sanitary dis-
39 trict, which at the last official census was shown to have the
40 largest population, and that the third member shall at all times
41 be a resident and qualified voter within the said sanitary dis-
42 trict, but from outside the corporate limits of the municipality

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43 situate within the said sanitary district, which at the last offi-
44 cial census was shown to have the largest population.

45 Said trustees shall, from the time of their appointment, as
46 provided in this act, be construed to be in law and in equity a
47 body corporate and politic by the name and style of "The
48 board of trustees of the (insert name of county in which dis-
49 trict is located) sanitary district," and as such and in such
50 name may prosecute and defend suits and have all other duties,
51 rights and powers incident to corporations, not inconsistent
52 with the provisions of this act.

53 A majority of the board of trustees shall constitute a quorum,
54 but a smaller amount may adjourn from day to day. A con-
55 currence of the majority shall be necessary to any action of
56 such board.

57 The trustees appointed in pursuance of the foregoing provi-
58 sions of this act shall, immediately after their appointment and
59 at their first meeting in May of each year thereafter, elect one
60 of their number as president, whose duty shall be to preside
61 over all meetings of said board, and to call special meetings
62 of said board when he or a majority of said board deem such
63 meetings necessary and in case said president should fail or

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64 refuse to call such meeting or meetings, then such meeting or
65 meetings may be called by a majority of said board. Said board
66 of trustees shall adopt rules and regulations for the conduct
67 of the business of said board, and shall fix a stated time at
68 which the regular meetings of said board shall be held. Said
69 board of trustees shall establish an office within said district and
70 shall cause to be kept a full, complete, accurate and itemized
71 account of all its expenditures and appropriations and complete
72 record of all its proceedings, ordinances, orders, resolutions,
73 rules and regulations.

Sec. 3. Said board of trustees shall have the right and
2 power to employ a clerk, treasurer, chief engineer and attorney
3 for such sanitary district, which officers shall hold their respec-
4 tive offices during the pleasure of such board, and shall give
5 such bonds for the faithful performance of their duties as may
6 be required by said board.

7 Said board shall also have power to employ and prescribe
8 the duties and fix the compensation of all necessary officers and
9 employees of said sanitary district: *Provided, however,* That
10 a member of said board of trustees shall in no case receive a
11 sum to exceed the sum of three hundred dollars per annum.

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12 No trustee or employee of such sanitary district shall be di-
13 rectly or indirectly interested in any contract, work or business
14 of sanitary district, or the sale of any article, the expense, price
15 or consideration of which is paid by said sanitary district, nor
16 in the purchase of any real estate or other property belonging
17 to the sanitary district, or which shall be sold for taxes or as-
18 sessments, or by virtue of legal process at the suit of said sani-
19 tary district: *Provided*, That nothing herein shall be construed
20 as prohibiting the appointment or selection of any person as
21 trustee or employee whose only interest in said sanitary dis-
22 trict is as an owner of real estate in said sanitary district or of
23 contributing to the payment of taxes levied by said sanitary
24 district.

Sec. 4. All ordinances imposing any penalty or making any
2 appropriations shall, within one month after they are passed,
3 be published at least once each week for two successive weeks in
4 two newspapers of opposite political faith published in such sani-
5 tary district, or in one newspaper if only one political faith is
6 represented by newspapers in such sanitary district, or if no
7 such newspaper of general circulation is published therein, by
8 posting copies of the same in three public places in the sanitary

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11

9 district; and no such ordinance shall take effect until ten days
10 after it is so published, and all other ordinances, orders and reso-
11 lutions shall take effect from and after their passage unless other-
12 wise provided therein.

13 All ordinances, orders and resolutions, and the date of publi-
14 cation thereof, may be proven by certificate of the clerk under
15 the seal of the corporation, and when printed in book or pam-
16 phlet form, and purporting to be published by the board of
17 trustees, such book or pamphlet shall be received as evidence of
18 the passage and legal publication of such ordinances, orders
19 and resolutions, as of the dates mentioned in such book or pam-
20 phlet in all courts and places without further proof.

Sec. 5. The board of trustees of any sanitary district or-
2 ganized under this act shall have power to build and construct
3 and to defray the costs of providing for the disposal of the
4 sewage thereof including the sewage and drainage of any in-
5 corporated city, town, or village within the boundaries of such
6 sanitary district, and to save and preserve the water supplied
7 to the inhabitants of such district from contamination and for
8 that purpose may build, construct, enlarge, repair, maintain
9 and operate a sewage treatment plant or plants together with

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10 such intercepting sewers, trunk sewers, lateral sewers, pumping
11 and ejector stations, force mains, outfall sewer or sewers, chan-
12 nels, drains, and all other necessary or useful and convenient
13 appurtenances in connection therewith: *Provided*, That such
14 works established or constructed by said sanitary district shall
15 serve and benefit the entire territory within the sanitary dis-
16 trict and not otherwise: *Provided further*, That nothing in this
17 act shall be construed to limit the power of the municipalities
18 included in said sanitary district from constructing and estab-
19 lishing drains and sewers within the corporate limits of such
20 municipality: *And provided further*, That before any general
21 outlet, main or trunk sewer shall be constructed by any such
22 municipality, included in said sanitary district, a plan or profile
23 of any such proposed general outlet, main or trunk sewer shall
24 be filed in the office of the board of trustees of said sanitary
25 district and be approved by said board. Such main channels,
26 drains, ditches and outlets for carrying off and disposing of the
27 drainage, including the sewage of such sanitary district, to-
28 gether with such adjuncts and additions thereto as may be nec-
29 essary or proper to cause such channels or outlets to accomplish
30 the end for which they were designed, and such disposal plants

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13

31 and works for disposing of the sewage of said sanitary district
32 may extend outside the territory included within such sanitary
33 district and the rights and powers of said board of trustees over
34 the portion of such channel or outlet or sewage disposal plant,
35 or works, lying outside of such sanitary district, shall be the
36 same as those vested in said board over said portions of such
37 channels or outlets, plants or works, within the said sanitary
38 district.

39 Such board may also treat and purify such sewage so that
40 when the same shall flow into any lake or other water course,
41 it will not injuriously contaminate the waters thereof, and may
42 adopt any other feasible method to accomplish the object for
43 which such sanitary district may be created, and may also pro-
44 vide means whereby the said sanitary district may reach and
45 procure supplies of water for diluting and flushing purposes:
46 *Provided, however,* That nothing herein contained shall be con-
47 strued to empower and authorize such board of trustees to op-
48 erate a system of waterworks for the purpose of furnishing
49 or delivering water to any such municipality or to the inhabit-
50 ants thereof.

Sec. 6. All sanitary districts organized under the provisions

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2 of this act shall proceed as rapidly as possible to provide sewers
3 and a plant or plants for the treatment or purification of its
4 sewage, which plant or plants shall be of suitable kind and suffi-
5 cient capacity to properly treat and purify such sewage so as
6 to conduce to the preservation of the public health, comfort and
7 convenience and to render said sewage harmless, insofar as is
8 reasonably possible, to animal, fish and plant life. Any viola-
9 tion of this proviso and any failure to observe and follow same,
10 by any sanitary district organized under this act, shall be held,
11 and is hereby declared, to be a misdemeanor on the part of the
12 sanitary district and upon conviction, said sanitary district
13 shall be punished by such fine as law and equity may require,
14 and the trustees thereof may be removed from office as trustees
15 of said sanitary district by an order of the court before whom
16 the cause is heard. It shall be the duty of the state water com-
17 mission or state department of health or other body having
18 proper supervision of such matters, to cause the foregoing pro-
19 visions to be enforced; and upon complaint of said commission
20 or department it shall be the duty of the attorney general
21 or prosecuting attorney of the county in which such violation

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15

22 may occur, to institute and prosecute such cause by indictment
23 or in the manner provided by law.

Sec. 7. In providing works for industrial sewage, commonly
2 called industrial wastes, in the manner above provided, whether
3 said industrial sewage is disposed of in combination with mu-
4 nicipal sewage or independently, said sanitary district shall
5 have power to apportion and collect therefor, from the pro-
6 ducer thereof, fair additional construction, maintenance and
7 operating costs over and above those covered by normal taxes,
8 and/or service rates or charges, and in case of dispute as to the
9 fairness of such additional construction, maintenance and oper-
10 ating costs, then the same shall be determined by a board of three
11 engineers, one appointed by said sanitary district, one appointed
12 by such producer or producers, or their legal representatives, and
13 the third to be appointed by the two engineers as above described.
14 In the event the two engineers so selected shall fail to agree upon
15 a third engineer, then upon petition of either of the parties the
16 circuit judge shall appoint such third engineer. A decision of a
17 majority of said board shall be binding on both parties and the
18 cost of services of said board shall be shared by both parties
19 equally.

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Sec. 8. Such sanitary district may acquire by purchase, con-
demnation, or otherwise, any and all real and personal prop-
erty, right-of-way and privilege, either within or without its
corporate limits, that may be necessary for its corporate pur-
poses. The compensation to be paid for such use may be a gross
sum, or it may be in the form of an annual rental, to be paid
in yearly installments as and in the manner provided by the
judgment or decree of the court wherein such proceedings may
be had: *Provided, however,* That when such compensation is
fixed at a gross sum all moneys for the purchase and condemna-
tion of any property shall be paid before possession is taken or
any work done thereon, and provided in case an appeal is taken
by either party from the court in which such condemnation is
ordered, whereby the damages are not finally determined, the
amount of the damages awarded by such court shall be de-
posited with the clerk of such court, subject to the orders of
such court, when the amount of damages shall be finally deter-
mined. All condemnation proceedings brought hereunder shall
be governed by the statutes prescribing the procedure in case
of eminent domain as provided by chapter fifty-four of the code
of West Virginia, one thousand nine hundred thirty-one, as now

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17

Sec. 9. Said sanitary district may borrow money for cor-
porate purposes and may issue revenue and/or tax obligation
bonds therefor, but shall not become indebted in any manner,
or for any purpose whatsoever, beyond an amount in the ag-
gregate to exceed five per cent of the valuation of the taxable
property within said district, to be ascertained by the last as-
sessment for state and county taxes, previous to incurring of
said indebtedness. Whenever the board of trustees of such sani-
tary district desires to issue bonds hereunder they shall order
an election to be held in such sanitary district upon the ques-
tion. Notice of such election shall be given by said board of
trustees for at least twenty days prior to said election by pub-
lication once each week for two successive weeks in two news-
papers of opposite political faith published in such sanitary
district, or in one newspaper if only one political faith is
represented by newspapers in the said sanitary district.

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18 [Enrolled H. B. No. 30

15 Such election notice shall also be posted in at least five
16 public places at least twenty days prior to the election. The
17 notices of election shall state the amount of bonds to be issued
18 and the polling places at which the election shall be held. The
19 board of trustees shall appoint judges and clerks for such elec-
20 tion, and the return of such election shall be filed with the clerk
21 of the board of trustees and be canvassed and the result ascer-
22 tained by said board and entered upon the records of the sani-
23 tary district. If it shall appear that a majority of the voters
24 voting at said election on said question shall have voted in favor
25 of the issue of the said bonds, the board of trustees shall order
26 and direct the execution of the bonds for and on behalf of said
27 sanitary district. All bonds issued hereunder shall mature in
28 not exceeding thirty annual installments. The ballots at elec-
29 tions held under this section shall be in substantially the follow-
30 ing form, to-wit:

31 Proposition to issue bonds ofsanitary
32 district to the amount of dollars.

33 ☐ Yes

34 ☐ No

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19

Sec. 10. At the time of, or before incurring any indebtedness, the board of trustees shall provide for the establishment and collection of service charges and/or a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof as the same shall fall due, and at least within thirty years from the time of contracting the same. The trustees shall have power and it shall be their duty to establish and maintain just and equitable rates or charges for the use of, and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the sanitary district, or that in any way uses or is served or benefited by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of bond interest and principal requirements and the proper and reasonable expense of operation, repair, replacements and maintenance of the works so acquired or constructed from the proceeds of the revenue bonds hereby authorized to be issued.

The board of trustees may levy and collect other service

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22 charges and/or direct annual taxes for corporate purposes upon
23 property within the territorial limits of such sanitary district,
24 the aggregate amount of such direct annual taxes shall not ex-
25 ceed one-third of one per cent of the value of the taxable prop-
26 erty within the corporate limits, as the same shall be assessed
27 and equalized for the state and county taxes of the year in
28 which the levy is made: *Provided, however,* That a like direct
29 annual tax in addition thereto may be levied when such addi-
30 tional tax has been authorized by the legal voters of such dis-
31 trict at an election duly called therefor. Such election shall be
32 governed by the terms of this act relating to elections held to
33 decide on the proposition of issuing bonds of said district. The
34 right to levy such additional tax, heretofore or hereafter author-
35 ized by the legal voters, may at any time after one or more tax
36 levies thereunder, be terminated by a majority vote of the elec-
37 tors of such sanitary district at an election called for that pur-
38 pose by the board of trustees of such sanitary district; it shall
39 be the duty of the trustees of any of such sanitary district to
40 submit the proposition to terminate such additional taxing
41 power when petitioned so to do by not less than ten per cent
42 of the legal voters of such sanitary district.

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21

43 Said board of trustees shall cause the amount required to be
44 raised by taxation in each year to be certified to the county
45 clerk in the manner and at the time provided by the general
46 revenue law. All taxes so levied and certified shall be collected
47 and enforced in the same manner and by the same officers as
48 state and county taxes, and shall be paid over by the officer
49 collecting the same to the treasurer of the sanitary district in
50 the manner and at the time provided by the general revenue
51 law.

52 The treasurer shall, when the moneys of the district are de-
53 posited with any bank or other depository, require such bank
54 or other depository to pay the same rates of interest for such
55 moneys deposited as such bank or other depository is accus-
56 tomed to pay depositors under like circumstances, in the usual
57 course of business.

Sec. 11. All contracts for work to be done by such sanitary
2 district, the expense of which will exceed five hundred dollars,
3 shall be let to the lowest responsible bidder therefor. The board
4 of trustees shall cause to be published once each week for two suc-
5 cessive weeks in two newspapers of opposite political faith pub-
6 lished in such sanitary district, or in one newspaper if only one

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6-~~a~~ political faith is represented by newspapers in the said
6-*b* sanitary district, a notice informing the public and con-
7 tractors of the general nature of the work and of the fact
8 that detailed plans, drawings and specifications are on file in
9 the office of such board of trustees and calling for sealed pro-
10 posals for the construction of the work to be done at a date not
11 earlier than ten days after the last of such publications. Said
12 board of trustees shall require each bidder to deposit with his
13 respective bid a certified check for an amount not less than two
14 and one-half per cent of the engineer's estimate of such work
15 to insure the execution of the contract for which such bid is
16 made. The board of trustees may impose such conditions as it
17 may deem necessary upon the bidders with regard to bond and
18 surety, guaranteeing the good faith and responsibility of such
19 bidders, and the faithful performance of such work according
20 to contract, or for any other purpose. The board of trustees
21 shall have the right to reject any and all bids, but if it does
22 reject all bids, before other bids may be received notices shall
23 be published as originally required. The board of trustees shall
24 have power to let portions of said proposed work under differ-
25 ent contracts.

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Enrolled H. B. No. 30]

23

26 Any additions or extensions to any sewage disposal plant, or
27 sewers or drains or any other work constructed under the pro-
28 visions of this act, shall be built under contract entered into
29 under the provisions of this section in the same manner as the
30 contract for the original plant or work. The cost of such addi-
31 tions or extensions, and of any additional lands or rights-of-
32 way acquired by said board, may be met by the sale of addi-
33 tional bonds to be issued and sold by the trustees, and the levy
34 of taxes and/or the collection of service charges to retire such
35 bonds, all as provided in this act.

Sec. 12. Any sanitary district formed hereunder shall have
2 the right to permit territory lying outside its limits, whether
3 within any other sanitary district or not, to drain into and use
4 any channel or drain made by it, upon such payments, terms
5 and conditions as may be mutually agreed upon, and any sani-
6 tary district formed hereunder is hereby given full power and
7 authority to contract for the right to use any drain or channel
8 which may be made by any other sanitary district, upon such
9 terms as may be mutually agreed upon, and to raise the money
10 called for by any such contract in the same way and to the same

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11 extent as such district is authorized to raise money for any
12 other corporate purposes.

Sec. 13. Additional contiguous territory may be added to
2 any sanitary district organized under this act in the manner
3 following, to-wit: Ten per cent or more of the legal voters
4 resident within the limits of such proposed addition to such
5 sanitary district may petition the county court of the county
6 in which the original petition for the formation of said sanitary
7 district was filed, to cause the question to be submitted to the
8 legal voters of such proposed additional territory whether said
9 proposed additional territory shall become a part of any con-
10 tiguous sanitary district organized under this act and whether
11 such additional territory and the taxpayers thereof shall assume
12 a proportionate share of the bonded indebtedness, if any, of
13 such sanitary district. Such petition shall be addressed to the
14 county court of the county in which the original petition for
15 the formation of the said sanitary district was filed, and shall
16 contain a definite description of the boundaries of the territory
17 sought to be added: *Provided*, That no territory disqualified in
18 section one of this act shall be included.

19 Upon filing such petition in the office of the county clerk of

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Enrolled H. B. No. 30]

25

20 the county of which the original petition for the organization of
21 such sanitary district was filed, it shall be the duty of the county
22 court of the county in which the original petition for the for-
23 mation of the said sanitary district was filed, to call to its as-
24 sistance the county courts of all the counties in which portions
25 of such sanitary district and the proposed addition or additions
26 thereto are situated, and such county courts after electing a
27 presiding officer from among themselves, shall constitute them-
28 selves a board of commissioners which shall have the power and
29 authority to consider the limits and boundaries of such pro-
30 posed additional territory, in the same manner as provided for
31 locating, fixing and deciding of the limits and boundaries of
32 the original sanitary district, as provided in section one of this
33 act. If such sanitary district as originally organized and the
34 proposed addition or additions are located in one county, the
35 county court of such county shall act in the same capacity and
36 manner as provided for in locating, fixing and deciding of the
37 limits and boundaries of the original sanitary district, as pro-
38 vided in section one of this act.

39 Notice shall be given by the county court of the time and
40 place when and where all persons interested will be heard sub-

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41 stantially as provided in and by section one of this act. The
 42 conduct of the hearing and the manner of conducting the sub-
 43 sequent election on the question whether the proposed addi-
 44 tional territory shall become a part of such sanitary district
 45 and the issuance, reception, return and canvassing of the bal-
 46 lots shall be, as nearly as possible, in accordance with the pro-
 47 visions of section one of this act; the ballot for the election
 48 provided for in this section shall be substantially as follows,
 49 to-wit:

- 50 ☐ For joining sanitary district and assuming a propor-
 51 tionate share of bonded indebtedness, if any.
 52 ☐ Against joining sanitary district and assuming a pro-
 53 portionate share of bonded indebtedness, if any.

54 If a majority of votes cast at such election shall be in favor
 55 of becoming a part of such sanitary district and if the trustees
 56 of such sanitary district accept the proposed additional terri-
 57 tory by ordinance annexing the same, the county court shall
 58 enter an appropriate order in the records of the county court,
 59 and such additional territory shall thenceforth be deemed an
 60 integral part of such sanitary district. Any such sanitary dis-

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27

61 triet upon petition addressed to such county court, signed by a
62 majority of the owners of lands constituting such territory who
63 shall have arrived at lawful age and who represent a majority
64 in area of such territory, which said petition shall contain a
65 definite description of the boundaries of such territory and shall
66 set forth the willingness of the petitioners that such territory
67 and the taxpayers thereof assume a proportionate share of the
68 bonded indebtedness, if any, of such sanitary district. Upon
69 the filing of such petition and notice of, and hearing, and deci-
70 sion upon the same by the aforesaid county court or board of
71 commissioners, all as hereinbefore provided, such county court
72 or board of commissioners shall enter an order or orders con-
73 taining its findings and decision as to the boundaries of the ter-
74 ritory to be annexed; and thereupon, if the board of trustees
75 of such sanitary district shall pass an ordinance annexing the
76 territory described in such order to said sanitary district, said
77 county court shall enter an appropriate order as hereinbefore
78 provided, and such additional territory shall thenceforth be
79 deemed an integral part of such sanitary district.

Sec. 14. Any contiguous territory located within the
2 boundaries of any sanitary district organized under this act,

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3 and upon the border of such sanitary district, may become dis-
4 connected from such sanitary district in the manner following,
5 to-wit: Ten per cent or more of the legal voters resident in
6 the territory sought to be disconnected from such sanitary dis-
7 trict may petition the county court of the county in which the
8 original petition for the organization of said sanitary district
9 was filed, to cause the question of such disconnection to be sub-
10 mitted to the legal voters of such territory whether such terri-
11 tory shall be disconnected. Said petition shall be addressed to
12 the county court of the county in which the original petition
13 for the formation of such sanitary district was filed and shall
14 contain a definite description of the boundaries of such territory
15 to be disconnected and recite as a fact, that there is no bonded
16 indebtedness of such sanitary district incurred while such ter-
17 ritory to be disconnected was a part of such sanitary district
18 and that such territory to be disconnected is not, at the time
19 of the filing of such petition, and will not be, either benefited or
20 served by any work or improvement either then existing
21 or then authorized by said sanitary district. Upon filing
22 such petition in the office of the county clerk of the county
23 in which the original petition for the formation of such sani-

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29

24 tary district has been filed it shall be the duty of the county
25 court of the county in which the original petition for the for-
26 mation of such sanitary district was filed, to consider the
27 boundaries of such territory and the facts upon which the peti-
28 tion is founded, and shall consider the limits and boundaries
29 of such proposed territory, in the same manner as provided for
30 locating, fixing and deciding of the limits and boundaries of the
31 original sanitary district, as provided in section one of this act.
32 If any part of the territory proposed to be disconnected is sit-
33 uated in another county or counties other than that county in
34 which the original petition was filed, then it shall be the duty
35 of the said county court of the county in which the original
36 petition was filed to call to its assistance the county courts of
37 counties in which portions of such territory proposed to be dis-
38 connected is situated; such county courts shall constitute them-
39 selves a board of commissioners, and after electing a presiding
40 officer from among themselves, shall consider the boundaries of
41 such territory and the facts upon which the petition is founded,
42 and shall consider the limits and boundaries of such proposed
43 territory to be disconnected, in the same manner as provided
44 for locating, fixing and deciding of the limits and boundaries

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H. B. No. 30

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45 of the original sanitary district, as provided in section one of
46 this act: *Provided, however,* That it shall be the duty of the
47 county court or the board of commissioners to deny the prayer
48 of the petition for the disconnecting of any territory from the
49 original sanitary district, if the material allegations therein
50 contained are not founded in fact.

51 Notice shall be given by the county court of the time and
52 place, when and where all persons interested will be heard sub-
53 stantially as provided in section one of this act. The conduct
54 of the hearing and the manner of conducting the subsequent
55 election on the question whether such territory shall become
56 disconnected and the issuance, reception, return and canvassing
57 of the ballots shall be, as nearly as possible, in accordance with
58 the provisions of section one of this act; the ballots for the elec-
59 tion provided for in this section shall be substantially as fol-
60 lows, to-wit:

- 61 ☐ For disconnection from sanitary district.
62 ☐ Against disconnection from sanitary district.

63 If a majority of the votes cast at such election shall be in
64 favor of disconnection, and if the trustees of such sanitary dis-
65 trict shall, by ordinance, disconnect such territory, thereupon

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Lucas A. Hyman

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31

66 the county court of the county in which the original petition for
67 the formation of such sanitary district was filed, shall enter an
68 appropriate order in the records of the said county court and
69 thereafter such territory shall henceforth be deemed discon-
70 nected from such sanitary district.

Sec. 15. If any clause, sentence, paragraph, section or part
2 of this act shall for any reason be adjudged or decreed to be
3 invalid by any court of competent jurisdiction, such judgment
4 or decree shall not affect, impair or invalidate the remainder of
5 this act, but shall be confined in its operation to the clause,
6 sentence, paragraph, section or part hereof directly involved in
7 the controversy in which said judgment or decree shall have
8 been rendered.

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Leva D. Hays
Chairman Senate Committee.

B. M. Hiner

Speaker of the House of Delegates.

Geo. S. Hall

Clerk of the House of Delegates.

H. M. Sineus

President of the Senate.

David D. Miller

Clerk of the Senate.

The within is.....

approved

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

H. S. Kump
Governor.

James L. Smith
Chairman House Committee.

Filed in the office of the Secretary of State
of West Virginia.

MAY 20 1933

WM. S. O'BRIEN,
Secretary of State