

Rec. Dec. 22, 1933

ENROLLED BILL
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 124

(By Mr. Thomas)

Passed December 20, 1933

In Effect from Passage

Originated in the House of Delegates. Takes effect. passage
Clerk House of Delegates.

CORRECTLY ENROLLED

Chairman Senate Committee.

Chairman House Committee.

ENROLLED BILL

(H. B. No. 124)

[Passed December 20, 1933; in effect from passage.]

AN ACT to amend and reenact sections fifteen and sixteen, chapter twenty-five, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to sewage works of municipal corporations.

Be it enacted by the Legislature of West Virginia:

That sections fifteen and sixteen, chapter twenty-five, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 15. (At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the state sinking fund commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies

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James L. Smith
Chairman House Committee.
Wm. D. Hyatt
Chairman Senate Committee.

6 for making payment of such bonds or interest, and shall set aside
7 and pledge a sufficient amount of the net revenues of the works,
8 hereby defined to mean the revenues of the works remaining
9 after the payment of the reasonable expense of operation, re-
10 pair and maintenance, such amount to be paid by the board into
11 said sinking fund at intervals to be determined by ordinance
12 prior to issuance of the bonds, for: (a) The interest upon such
13 bonds as such interest shall fall due; (b) the necessary fiscal
14 agency charges for paying bonds and interest; (c) the payment
15 of the bonds as they fall due, or, if all bonds mature at one
16 time, the proper maintenance of a sinking fund in such amounts
17 as are necessary and sufficient for the payment thereof at such
18 time; (d) a margin for safety and for the payment of prem-
19 iums upon bonds retired by call or purchase as herein provided,
20 which margin, together with any unused surplus of such mar-
21 gin carried forward from the preceding year, shall equal ten
22 per cent of all other amounts so required to be paid into the
23 sinking fund. Such required payments shall constitute a first
24 charge upon all the net revenue of the works. Prior to the is-
25 suance of the bonds the board may by ordinance be given the
26 right to use or direct the state sinking fund commission to use

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James A. Hays

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

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27 such sinking fund or any part thereof in the purchase of any of
28 the outstanding bonds payable therefrom at the market price
29 thereof, but not exceeding the price, if any, at which the same
30 shall in the same year be payable or redeemable, and all bonds
31 redeemed or purchased shall forthwith be cancelled and shall not
32 again be issued. After the payments into the sinking fund as
33 herein required, the board may at any time in its discretion
34 transfer all or any part of the balance of the net revenues, after
35 reserving an amount deemed by the board sufficient for operation,
36 repair and maintenance for an ensuing period of not less than
37 twelve months and for depreciation, into the sinking fund or
38 into a fund for extensions, betterments and additions to the
39 works. The amounts of the balance of the net revenue as and
40 when so set apart shall be remitted to the state sinking fund
41 commission to be retained and paid out by said commission con-
42 sistent with the provisions of this act and with the ordinance
43 pursuant to which such bonds have been issued. The state sink-
44 ing fund commission is hereby authorized to act as fiscal agent
45 for the administration of such sinking fund, under any ordi-
46 nance passed pursuant to the provisions of this act, and shall
47 invest all such sinking funds as provided by general law.

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James L. Smith
James A. Boyer

Chairman House Committee.

Chairman Senate Committee.

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

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James A. Rogers

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

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22 charges, shall be given by one publication once each week for
23 two consecutive weeks in two newspapers of opposite political
24 faith published in such municipality, or in one newspaper, if
25 only one political faith is represented by newspapers in the
26 said municipality, at least ten days before the date fixed in such
27 notice for the hearing, which may be adjourned from time to
28 time, and if no newspaper be published in such municipality,
29 the notice shall be published as aforesaid in two newspapers of
30 opposite political faith, if there be such published in the county
31 within which such municipality is embraced, once each week
32 for two consecutive weeks. After such hearing the ordinance
33 establishing rates or charges, either as originally introduced or
34 as modified and amended, shall be passed and put into effect. A
35 copy of the schedule of such rates and charges so established
36 shall be kept on file in the office of the board having charge of
37 the operation of such works, and also in the office of the clerk
38 of the municipality, and shall be open to inspection by all par-
39 ties interested. The rates or charges so established for any
40 class of users or property served shall be extended to cover any
41 additional premises thereafter served which fall within the
42 same class, without the necessity of any hearing or notice. Any

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James E. Smith
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Chairman House Committee.

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43 change or readjustment of such rates or charges may be made in
44 the same manner as such rates or charges were originally es-
45 tablished as hereinbefore provided: *Provided, however,* That
46 if such change or readjustment be made substantially pro rata,
47 as to all classes of service, no hearing or notice shall be required.

48 The aggregate of the rates or charges shall always be sufficient
49 for such expense of operation, repair and maintenance and for
50 such sinking fund payments. All such rates or charges, if not
51 paid when due, shall constitute a lien upon the premises served
52 by such works. If any service rate or charge so established shall
53 not be paid within thirty days after the same is due, the amount
54 thereof, together with a penalty of ten per cent, and a reason-
55 able attorney's fee, may be recovered by the board in a civil
56 action in the name of the municipality, and in connection with
57 such action said lien may be foreclosed against such lot, parcel
58 of land or building, in accordance with the laws relating there-
59 to.

CORRECTLY ENROLLED

William D. St. Asaph
Chairman Senate Committee.

B. M. Shivers
Speaker of the House of Delegates.

Geo. S. Hall
Clerk of the House of Delegates.

R. B. Mainwaring
President of the Senate.

Samuel A. Mink
Clerk of the Senate.

James W. Smith
Chairman House Committee.

The within is.....

this.....day of....., 1933.

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Governor.

Filed in the office of the Secretary of State
of West Virginia. **DEC 30 1933**
Wm. S. O'BRIEN,
Secretary of State