

Rec., Jan. 25, 1934

APPROVED

1/26/34

125

ENROLLED BILL
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 125

(By Mr. Thomas)

Passed January 19 1934

In Effect from Passage

Originated in the.....*House of Delegates*.....Takes effect.....*January 19, 1934*.....passage
James L. Hall.....*Clerk.*
James L. Hall.....*Clerk of the House of Delegates.*

CORRECTLY ENROLLED

James L. Smith.....*Chairman House Committee.*
James L. Smith.....*Chairman Senate Committee.*

ENROLLED BILL
(H. B. No. 125)

[Passed January 19, 1934; in effect from passage.]

AN ACT to amend and reenact sections three, five, six, seven and ten, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to waterworks systems of municipal corporations.

Be it enacted by the Legislature of West Virginia:

That sections three, five, six, seven and ten, chapter twenty-six, 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 3. Whenever the municipality shall determine to
2 acquire (by purchase or otherwise), improve or construct a
3 waterworks system under the provisions of this act, it shall
4 cause an estimate to be made of the cost thereof, and shall, by

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James A. Hays

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

5 ordinance, provide for the issuance of revenue bonds under the
6 provisions of this act, which ordinance shall set forth a brief
7 description of the contemplated improvement, the estimated cost
8 thereof, the amount, rate of interest, time and place of payment,
9 and other details in connection with the issuance of the bonds.
10 Such bonds shall be in such form and shall be negotiated in such
11 manner and upon such terms as the governing body of such
12 city or town may by ordinance specify. All such bonds shall be
12-a exempt from taxation by the state of West Virginia or any
12-b county or municipality therein. Such bonds shall bear
13 interest at not more than six per cent per annum, payable semi-
14 annually, and shall be payable at such times and place not
15 exceeding thirty-four years from their date, as shall be pres-
16 cribed in the ordinance providing for their issuance. Such
17 ordinance shall also declare that a statutory mortgage lien shall
18 exist upon the property so to be acquired, improved or con-
19 structed, fix a minimum rate or rates for water to be collected
20 prior to the payment of all of said bonds and shall pledge the
21 revenues derived from the waterworks system for the purpose
22 of paying such bonds and interest thereon, which pledge shall
23 definitely fix and determine the amount of revenues which shall

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24 be necessary to be set apart and applied to the payment of the
25 principal of, and interest on the bonds and the proportion of
26 the balance of such revenues and income which are to be set
27 aside as a proper and adequate depreciation account, and the
28 remainder shall be set aside for the reasonable and proper oper-
29 ation thereof. The rate to be charged for the services from such
30 waterworks shall be sufficient to provide for the payment of
31 interest upon all bonds and to create a sinking fund to pay the
32 principal thereof as and when the same become due, and to
33 provide for the operation and maintenance of the system, and
34 to provide an adequate depreciation fund.

Sec. 5. Bonds herein provided for shall be issued in such
2 amounts as may be necessary to provide sufficient funds to pay
3 all costs of construction, improvement or acquisition, including
4 engineering, legal and other expenses, together with interest to
5 a date six months subsequent to the estimated date of comple-
6 tion. Bonds issued under the provisions of this act are hereby
7 declared to be negotiable instruments, and same shall be exe-
8 cuted by the proper legally constituted authorities of the munici-
9 pality and be sealed with the corporate seal of the municipality,
10 and in case any of the officers whose signatures appear on the

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11 bonds or coupons shall cease to be such officers before delivery
12 of such bonds, such signatures shall nevertheless be valid and
13 sufficient for all purposes the same as if they had remained in
14 office until such delivery. Said bonds shall not be negotiated
15 at a price lower than a price which computed to maturity upon
16 standard tables of bond values will show a net return of six per
17 cent per annum to the purchaser upon the amount paid therefor.

Sec. 6. Bonds issued under the provisions of this act shall be
2 payable solely from the revenues derived from such waterworks
3 system, and such bonds shall not in any event constitute an
4 indebtedness of such municipality within the meaning of the
5 constitutional provisions or limitations, and it shall be plainly
6 stated on the face of each bond that the same has been issued
7 under the provisions of this act, and that it does not constitute
8 an indebtedness of such municipality within any constitutional
9 or statutory limitation. The ordinance authorizing the issuance
10 of the bonds may contain such covenants and restrictions upon
11 the issuance of additional revenue bonds thereafter as may be
12 deemed necessary or advisable for the assurance of payment of
13 the bonds thereby authorized and as may thereafter be issued.

Sec. 7. There shall be and there is hereby created a statutory

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James A. Boyer

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2 mortgage lien upon the waterworks system so acquired, im-
3 proved or constructed from the proceeds of bonds hereby au-
4 thorized to be issued, which shall exist in favor of the holder of
5 said bonds and each of them, and to and in favor of the holder
6 of the coupons attached to said bonds, and such waterworks
7 system shall remain subject to such statutory mortgage lien
8 until payment in full of the principal and interest of said bonds.
9 Any holder of bonds issued under the provisions of this act or
10 of any coupons representing interest accrued thereon, may,
11 either at law or in equity, enforce the statutory mortgage lien
12 hereby conferred, and may, by proper suit, compel the per-
13 formance of the duties of the officials of the issuing municipality
14 set forth in this act. If there be default in the payment of the
15 principal of and/or interest upon any of said bonds, any court
16 having jurisdiction in any proper action may appoint a re-
17 ceiver to administer said waterworks system on behalf of the
18 municipality with power to charge and collect rates sufficient
19 to provide for the payment of said bonds and interest thereon,
20 and for the payment of the operating expenses and to apply the
21 income and revenues in conformity with this act and the ordi-
22 nance providing for the issuance of such bonds.

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Anna D. Rogers.

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

23 Any municipality in acquiring an existing waterworks sys-
24 tem may provide that payment thereof shall be made by issuing
25 revenue bonds and delivering same at such prices as may be
26 agreed upon within the limitations as prescribed in section five
27 hereof as amended. Any revenue bonds so issued in payment
28 for such an existing waterworks shall for all purposes be re-
29 garded as partaking of the nature of and as being secured by
30 purchase money mortgage upon the property so acquired; and
31 the holders thereof shall have, in addition to any other remedies
32 and rights prescribed by this act, such remedies and rights as
33 may now or hereafter exist in law in the case of purchase money
34 mortgages.

Sec. 10. Whenever any municipality now or hereafter shall
2 own and operate a waterworks system, whether constructed
3 under the provisions of this act or not, and shall desire to con-
4 struct improvements and betterments thereto, it may issue reve-
5 nue bonds under the provisions of this act to pay for same, and
6 the procedure therefor, including the fixing of rates and the
7 computation of the amount thereof, shall be the same as in this
8 act provided for the issuance of bonds for acquisition or con-
9 struction of a waterworks system in a municipality which has

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10 not heretofore owned and operated a waterworks system: *Pro-*
11 *vided, however,* That nothing in this act shall be construed as
12 authorizing any municipality to impair or commit a breach of
13 the obligation of any valid lien or contract created or entered
14 into by it, the intention being to authorize the pledging, setting
15 aside and segregation of such revenues for the construction of
16 such improvements and betterments only where and to the extent
17 consistent with outstanding obligations of such municipality,
18 and in accordance with the provisions of this act.

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[Signature]
 Chairman Senate Committee.

[Signature]
 Speaker of the House of Delegates.

[Signature]
 Clerk of the House of Delegates.

[Signature]
 President of the Senate.

[Signature]
 Clerk of the Senate.

[Signature]
 Chairman House Committee.

The within is... *approved*

this... *26th* ... day of... *January* ..., 1934.

[Signature]
 Governor.

Filed in the office of the Secretary of State
 of West Virginia. **JAN 27 1934**

Wm. S. O'BRIEN,
 Secretary of State