

276

ENROLLED BILL
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 271

(By Mr. Bautz)

Passed February 7 1934

In Effect From Passage

Originated in the House of Delegates Takes effect Passage
Jno. A. Wallace Clerk of House of Delegates

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James L. Smith Chairman House Committee
O. Quinn Chairman Senate Committee

ENROLLED BILL

(H. B. No. 271)

[Passed February 7, 1934; in effect from passage.]

AN ACT to authorize the county court of Wetzel county, West Virginia, a municipal corporation, to provide, construct, operate, erect, improve, equip and maintain a hospital in Wetzel county, West Virginia; to authorize the issuance of revenue bonds of the county payable solely from the earnings of such hospital to pay the cost thereof; to authorize the county court of Wetzel county to borrow funds from the reconstruction finance corporation or other federal governmental agency, and to pledge or sell said revenue bonds to secure the same; to provide for the execution of a lien, or liens, to secure said revenue bonds, upon the real estate acquired and upon the buildings erected thereon and the equipment provided therein for such hospital; providing for the collection of fees and charges for the payment of such bonds and for the cost of maintenance,

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Henry A. Henry

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operation and repairs thereof, including the right to lease said property to any association for hospital purposes and to maintain control over the operation of the same during the life of said revenue bonds; setting forth the conditions upon which said hospital shall become the property of the county and/or the board of visitors thereof; fixing certain powers and duties of the county court of Wetzel county in regard thereto; declaring that no debt of said Wetzel county shall be incurred in the exercising of any powers granted hereby; providing for condemnation; and to repeal house bill number one hundred thirty-six, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, authorizing the county court of Wetzel county, West Virginia, to borrow funds from federal agencies to erect a county hospital.

Be it enacted by the Legislature of West Virginia:

That house bill number one hundred thirty-six, passed by the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, and relating to the authorization of the county court of Wetzel county, West Virginia, to borrow funds from federal agencies to erect a county hospital, be

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James E. Smith

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and the same is hereby repealed, and the following is enacted in lieu therefor:

Section 1. The county court of Wetzel county, West Virginia, a municipal corporation, is hereby authorized to provide, construct, erect, improve, equip, maintain and operate a hospital in Wetzel county, West Virginia, but the cost of construction, erection, equipment, improvement and maintenance shall be solely by means of or with the proceeds of the revenue bonds hereinafter authorized. The county court of Wetzel county shall have power and authority to employ engineering, architectural and construction experts, and such other employes as may be necessary in its judgment, and fix their compensation, all of whom shall do such work as the county court of Wetzel county shall direct, and all of which shall be included as part of the cost of the construction and equipment thereof.

Sec. 2. Whenever it shall be necessary, the county court of Wetzel county may condemn any interest, right or privilege, land or improvement, in Wetzel county, West Virginia, which in its opinion may be necessary, in the manner provided by law for the acquisition by this county of property for public purposes. The county court of Wetzel county shall be under no

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7 obligation to accept and pay for any property condemned and
8 shall in no event pay for the same except from the funds pro-
9 vided hereinafter, and in any proceedings to condemn, such
10 orders shall be made by the court having jurisdiction of the
11 suit or proceedings as may be just to the county and to the
12 owner of the property to be condemned, and a bond or other
13 security may be required by the court securing such owner
14 against any loss or damage to be sustained by reason of the
15 failure of the county to accept and pay for the property, but
16 such bond or security shall impose no liability or debt on or
17 of the county as contemplated by the provisions of the consti-
18 tution of the state in relation to the county debt.

Sec. 3. The county court of Wetzel county may pay the
2 cost as defined by sections one to eleven, inclusive, of this act,
3 of such hospital, out of the proceeds of such revenue bonds of
4 the county as are hereinafter set forth. The said county court
5 of Wetzel county is authorized to issue revenue bonds of the
6 county, by a resolution of the county court of such county which
7 shall recite an estimate by said county court of such cost, the
8 principal and interest of which bonds shall be payable solely
9 from the special fund herein provided for such payment. All

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10 such bonds shall have and are hereby declared to have all the
11 qualities of negotiable instruments under the law merchant.
12 Such bonds shall bear interest, at not more than six per cent
13 per annum, and shall mature in not more than thirty years
14 from their date or dates, and may be made redeemable at the
15 option of the county, to be exercised by the county court, at
16 such price and under such terms and conditions as the county
17 court may fix prior to the issuance of such bonds. The county
18 court shall determine the form of such bonds, including coupons
19 to be attached thereto to evidence the right of interest payments,
20 which bonds shall be signed by the president of the county
21 court, under the seal of the county court of Wetzel county
22 attested by the clerk of the county court, and the coupons at-
23 tached thereto shall bear the facsimile signature of the presi-
24 dent of the county court. In case any of the officials whose
25 signatures appear on the bonds or coupons shall cease to be such
26 officers before the delivery of such bonds, such signatures shall
27 nevertheless be valid and sufficient for all purposes the same
28 as if they had remained in office until such delivery. The
29 county court shall fix the denominations of such bonds, the prin-
30 cipal and interest of which shall be payable at the office of the

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31 clerk of the county court of Wetzel county, West Virginia, at
32 New Martinsville, West Virginia, either in lawful money or in
33 gold coin of the United States of America, of or equal to the
34 then current standard of weight and fineness, as may be de-
35 termined by said county court. Such bonds shall be exempt
36 from taxation by the state of West Virginia, or any county,
37 school district or municipality therein. The county court may
38 provide for the registration of such bonds in the name of the
39 owner as to principal alone and as to both principal and in-
40 terest under such terms and conditions as the county court may
41 determine. The county court of Wetzel county is authorized
42 to enter into such agreements and/or contracts as it may deter-
43 mine to be for the best interests of the county with the recon-
44 struction finance corporation, the public works administration
45 or other federal governmental agencies authorized to purchase
46 said bonds or to make loans upon the same, for the purpose of
47 selling and/or pledging said revenue bonds to secure and/or
48 borrow funds from the said federal governmental agency, in
49 any event not to exceed the sum of fifty thousand dollars, how-
50 ever. Said revenue bonds shall not be negotiated, pledged or
51 sold at a price lower than a price which computed to maturity

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52 upon the standard tables of bond values will show a net return
53 of not more than six per cent per annum to the holder or pur-
54 chaser upon the amount paid, pledged or advanced therefor.

55 The proceeds of such bonds or the loan secured thereby shall
56 be used solely for the payment of the costs of such hospital and
57 the maintenance thereof, and shall be checked out by the presi-
58 dent of the county court and the clerk of the county court and
59 under such further restrictions, if any, as the county court or
60 the federal governmental agency may provide. If the proceeds
61 of such bonds, by error or otherwise, shall be less than the cost
62 of such hospital, additional bonds may in like manner be issued
63 to provide the amount of such deficit, and shall be deemed to be
64 of the issue and shall be entitled to payment from the same
65 fund, without preference or priority of the bonds first issued
66 for the said hospital. If the proceeds of the bonds issued for
67 such hospital shall exceed the cost thereof, the surplus shall be
68 paid unto the fund hereinafter provided for payment of the
69 principal and interest of said bonds. Such fund may be used
70 for the purchase of any of the outstanding bonds payable from
71 such fund at the market price, but not exceeding the price, if
72 any, at which such bonds shall in the same year be redeemable,

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Henry A. Byrd

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73 and all bonds redeemed or purchased shall forthwith be can-
74 celled and shall not again be issued.

75 Prior to the preparation of definitive bonds, the county court
76 may under like restrictions issue temporary bonds with or with-
77 out coupons, exchangeable for definitive bonds upon the issuance
78 of the latter. Such revenue bonds may be issued without any
79 other proceedings or the happening of any other conditions and
80 things than those proceedings, conditions and things which are
81 specified and required by this act or by the constitution of the
82 state.

Sec. 4. For the purpose of securing the revenue bonds,
2 and the loan created thereby, the county court of Wetzel county
3 is authorized and empowered to give a lien, or liens, on the real
4 estate on which said hospital is erected, upon the building or
5 buildings erected thereon, and the equipment therein contained,
6 for the benefit of and to secure the federal governmental agency
7 advancing the money on said revenue bonds.

Sec. 5. The county court of Wetzel county, or the board of
2 visitors to be designated by it as hereinafter provided for, shall
3 properly maintain, repair, operate, manage and control the
4 fiscal affairs of such hospital, for the welfare of the inmates,

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5 employes and county in general, and may make and enter into
6 all contracts or agreements necessary and incidental to the per-
7 formance of its duties and the execution of its powers under
8 this act.

Sec. 6. Fees and charges shall be fixed, charged and collected
2 in connection with the use or occupancy of, or service to be
3 thereby rendered and furnished by such hospital, and shall be
4 so fixed or adjusted in respect to the aggregate of fees and
5 charges from the said hospital for which a single issue of bonds
6 is issued, as to provide a fund sufficient to pay the principal
7 and interest of such issue of bonds and to provide an additional
8 fund to pay the cost of maintaining, repairing, operating and
9 insuring such hospital. The fees and charges from the hospital
10 for which a single issue of bonds is issued, except such part
11 thereof as may be necessary to pay such cost of maintaining,
12 repairing, operating and insuring any period in which such
13 cost is not otherwise provided for (during which period the
14 fees and charges may be reduced accordingly), shall be trans-
15 mitted each month to the county court of Wetzel county and
16 be placed in a special fund which is hereby pledged to and
17 charged with the payment of the principal of such bonds and

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18 the interest thereon, and to the redemption of a repurchase of
19 such bonds, such special fund to be a fund for all such bonds
20 without distinction or priority of one over another. The money
21 in such special fund, less a reserve for payment of interest, if not
22 used by the county court of Wetzel county within a reasonable
23 time for the purchase of bonds for cancellation at a price not
24 exceeding the market price and not exceeding the redemption
25 price, shall be applied to the redemption of bonds by law at
26 the redemption price then applicable: *Provided, however,* That
27 at the option of said reconstruction finance corporation or other
28 guaranteed agency, such moneys as may be transmitted and paid
29 to a trustee designated and named by the said reconstruction
30 finance corporation in its agreement and contract with the
31 county court of Wetzel county, for the payment of the principal
32 of such bonds and the interest thereon, under such terms and
33 conditions as may be agreed upon.

Sec. 7. The circuit court of Wetzel county shall have the
2 power, unless otherwise so stipulated against by any agreement
3 or contract entered into with any federal governmental agency
4 which shall agree to buy or lend funds on the revenue bonds
5 herein provided for, to lease the said hospital, property and

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6 equipment to any association for hospital purposes, maintaining
7 control, however, over the operation of the same during the life
8 of the revenue bonds, and only, however, upon such terms as
9 will be satisfactory and sufficient to retire the revenue bonds,
10 including both principal and interest thereon, in manner and
11 form as provided herein by this act.

Sec. 8. When the particular bonds for the hospital and the
2 interest on such bonds shall have been paid, or a sufficient
3 amount has been provided for their payment and shall continue
4 to be held for that purpose, the said hospital shall thereafter
5 be unqualifiedly the property of Wetzel county, and thereafter
6 the fees and charges collected for the use or occupancy of, or
7 service rendered and furnished by such hospital shall be paid
8 into the county treasury or any depository hereafter provided
9 for by the county court of Wetzel county, and used and ex-
10 pended for the benefit of the institution where and by virtue
11 of which it was collected.

Sec. 9. Nothing in these sections dealing with such hospital
2 shall be so understood or interpreted as to authorize or permit
3 the incurring of a county debt of any kind or nature as con-
4 templated by the constitution of this state in relation to the

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5 county debt. The hospital herein shall be of the character
6 described as a self-liquidating project under the laws of the
7 United States relating to the reconstruction finance corporation.

8 The county court of Wetzel county is authorized and em-
9 powered to enter into the necessary contracts and agreements
10 to carry out the purposes hereof with the reconstruction finance
11 corporation of the United States, or with any other public
12 agency similar thereto.

Sec. 10. The county court of Wetzel county is authorized and
2 empowered to appoint a board of visitors, which shall consist of
3 nineteen members. The board of visitors shall be authorized and
4 empowered to control, manage and operate the hospital, subject
5 however, to the provisions of this act as hereinbefore set forth,
6 and subject to the authority of the county court.

Sec. 11. Sections one to twelve, inclusive, of this act, shall
2 be deemed and regarded as supplementary and additional to
3 the powers conferred by other laws: *Provided, however,* That
4 when any revenue bonds are issued under further provisions pro-
5 vided by sections one to twelve of this act, for the erection and
6 construction of a hospital, no other hospital shall thereafter be
7 constructed, built or erected in Wetzel county, West Virginia, by

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8 the county or the county court thereof, until the county court
9 of Wetzel county shall, by investigating and hearing had therein,
10 under such rules as it may prescribe, determine that there is an
11 imperative public need for the construction, building or erection
12 of such additional hospital, and that its construction, building
13 or erection and subsequent maintenance or operation will not
14 materially injure the revenues of and from the hospital con-
15 structed, builded, erected, maintained or operated under the
16 provisions of sections one to twelve, inclusive, of this act.

Sec. 12. The provisions and parts of sections one to eleven,
2 inclusive, of this act, are separable and are not matters of
3 mutual essential inducement, and it is the intention to confer
4 the whole or any part of the powers herein provided for, and if
5 any of the sections or provisions or parts thereof are for any
6 reason illegal or invalid, it is the intention that the remaining
7 sections and provisions or parts thereof shall remain in full
8 force and effect.

James P. Smith
Chairman Senate Committee.

B. S. Harris
Speaker of the House of Delegates.

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

W. M. Mauney
President of the Senate.

James P. Smith
Chairman House Committee.

Samuel A. Smith
Clerk of the Senate.

The within is.....

this.....day of....., 1934.

.....
Governor.

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