

Dec. 11, Jan. 21, 1934
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ENROLLED BILL
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 274

(By Mr. Winer)

Passed January 26, 1934

In Effect from Passage

Originated in the... House of Delegates... Takes effect... Passage

Clerk of House of Delegates.

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Clerk.

Chairman Senate Committee.

Chairman House Committee.

ENROLLED BILL

(H. B. No. 274)

[Passed January 26, 1934 ; in effect from passage.]

AN ACT to provide for the adjudication of the validity or invalidity of indebtedness, not bonded, of counties, magisterial districts, magisterial or independent school districts, municipalities and other taxing districts, and the funding and payment of such indebtedness, not bonded, of established legality.

Be it enacted by the Legislature of West Virginia:

Section 1. (Preamble).

2 WHEREAS, The severe financial and economic depression ex-
3 isting for several years past has resulted in an unprecedented
4 increase in delinquent taxes in the State of West Virginia and
5 the several subdivisions thereof ; and by reason of such increase
6 in the amount of delinquent taxes, estimated revenues upon
7 which the operation of the counties, districts and municipalities

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8 of the state were predicated failed to materialize, with the re-
9 sult that deficits have accumulated in many of the taxing dis-
10 tricts of the state and there are large amounts of outstanding
11 orders and drafts unpaid, and for the immediate payment of
12 which no provision has been made; and

13 WHEREAS, The immediate provision for the payment of all
14 of such accumulated deficits would be extremely burdensome to
15 the taxpayers of the State of West Virginia, who have already
16 and are now suffering from the severe financial and economic
17 depression of recent years; and

17-a WHEREAS, It is believed and the Legislature of West Virginia
18 hereby declares its belief that the conditions heretofore existing
19 have created an emergency of such nature as to justify legisla-
20 tion for the extension of time for the payment of such deficits
21 and the funding thereof in keeping with what is believed by the
22 Legislature to be a judicially enforced rule of common law ap-
23 plicable to taxation for the payment of indebtedness, not bonded.

Sec. 2. The term "indebtedness" as used in this bill shall
2 mean contractual indebtedness, not bonded, whether evidenced
3 by orders or otherwise and incurred on or prior to June thirty,
4 one thousand nine hundred thirty-three. The words "taxing

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5 district'' as used in this bill shall mean any county, magisterial
6 district, magisterial or independent school district, municipality
7 or any other taxing district except the state of West Virginia.
8 The words ''fiscal body'' as used in this bill shall mean any gov-
9 ernmental agency charged with the laying of levies for the pay-
10 ment of indebtedness of any taxing district as herein defined.
11 The word ''order'' when used in this bill with reference to a
12 written evidence of indebtedness shall mean a writing issued by
13 the fiscal body directed to the sheriff or other paying officer re-
14 quiring him to pay therein named a sum certain and shall in-
15 clude such writings which are commonly referred to as drafts,
16 warrants or orders. The words ''certificate of indebtedness''
17 as used in this bill shall mean any evidence of indebtedness of a
18 taxing district other than orders issued prior to the enactment
19 of this bill.

Sec. 3. Each fiscal body shall make, for each taxing district
2 for which it lays levies, a statement showing: (a) the total
3 amount of indebtedness incurred prior to or on the thirtieth
4 day of June one thousand nine hundred thirty-three, disti-
5 nguishing between such indebtedness incurred prior to Novem-
6 ber eighth one thousand nine hundred thirty-two and that in-

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7 curred thereafter, by each taxing district for which such fiscal
8 body is required to lay the levies; (b) the estimated amount to
9 be received from collections of taxing districts for the fiscal year
10 beginning July first, one thousand nine hundred thirty-two, and
11 preceding years during the fiscal year beginning July first, one
12 thousand nine hundred thirty-four and for the three years fol-
13 lowing; (c) the estimated returns of the levies apportioned for
14 indebtedness purposes to such fiscal body for such taxing dis-
15 trict by the provisions of house bill number two hundred thirty-
16 four, second extraordinary session, one thousand nine hundred
17 thirty-three; (d) the amount thereof required for bonded in-
18 debtedness; (e) the remainder, if any, available for indebted-
19 ness as defined in this bill, and (f) the assessed valuation by
20 classes of all taxable property in the taxing district and shall
21 forward a copy of such statement to the tax commissioner and to
22 the prosecuting attorney of the county in which the taxing dis-
23 trict is situate.

Sec. 4. The tax commissioner shall examine the statements
2 provided by section three hereof for each taxing district and if,
3 in his opinion, the laying of levies for all of such indebtedness
4 not otherwise provided for will cause a disturbance in the admin-

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5 istration of the financial affairs of the taxing district not nec-
6 essary to the protection and enforcement of the right of any
7 creditor and unnecessarily burdensome to the taxing district,
8 in view of the present emergency, he may require the prose-
9 cuting attorney of the county in which the taxing district is
10 situate to file in the circuit court of said county a petition on
11 behalf of such fiscal body as provided in section five of this
12 bill.

Sec. 5. The prosecuting attorney of any county, when so re-
2 quired by the tax commissioner as provided in section four of
3 this bill, shall file in the circuit court of the county in which
4 the taxing district is located on behalf of the county or of any
5 other taxing district thereof, a petition against all holders of in-
5-a debtedness, as herein defined, owing by the taxing district or
6 districts, alleging the facts appearing from the statement pro-
7 vided by section three hereof, and any other pertinent facts,
8 concluding with a prayer that the amount and legality of such
9 indebtedness be inquired into by the court in the manner pro-
10 vided by this bill. Proceedings on behalf of any or all taxing
11 districts within the county may be consolidated and presented by
12 one petition, but the facts relating to each taxing district shall

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13 appear therein separately. No summons or other process shall
14 be necessary, other than the notices herein provided for, except
15 such process as may be necessary in the adjudication of con-
16 tested claims as hereinafter provided for. The court shall there-
17 upon cause notice of the filing of the petition and that it will
18 appoint commissioners thereunder on a day certain to be given
19 by publication for two successive weeks in two newspapers of
20 different political affiliations, published in the county, if there
21 be two, if not, in one newspaper published in the county, and
22 if there be no newspaper published in the county, then by post-
23 ing notice for at least ten days at the front door of the court-
24 house and at a public place in each magisterial district and
25 municipality in the county, which day shall not be more than
26 thirty days after the filing of the petition. The form of such
27 notice shall be sufficient if substantially as follows:

28 "NOTICE IS HEREBY GIVEN, that.....,
29 Prosecuting Attorney of the County of....., has
30 filed in the Circuit Court of.....County a petition
31 on behalf of the County Court of.....County, The
32 Board of Education of the County of....., the Town
33 Council of the Town of..... (etc., or any, or all,

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34 as the case may be) against all persons having contractual
35 claims, not bonded, against the.....County,
36 district, municipality, etc., under the pro-
37 visions of Chapter, acts of the Legislature, second
38 extraordinary session, one thousand nine hundred thirty-three.
39 And the Circuit Court of.....County will, on the
40day of....., 19...., at the courthouse
41 of said county of....., at..... o'clock of that
42 day, appoint three commissioners to inquire into the legality of
43 such indebtedness in the manner required by said act.

44

.....

45

Clerk of the Circuit Court of.....

46

County.”

Sec. 6. The petition shall be considered as a bill in equity and
2 the proceedings thereon shall be considered as a cause in equity
3 in so far as the procedure thereof be applicable, except as
4 otherwise provided by this bill.

Sec. 7. Within thirty days after the petition shall have been
2 filed, and on the day stated in the notice under section five
3 hereof, the court or the judge thereof in vacation, shall, by
4 order, designate three special commissioners to constitute a

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5 commission to inquire into the indebtedness of such taxing dis-
6 trict or taxing districts and to receive proof of contractual
7 claims against such taxing district and to report on the validity
8 or invalidity of such alleged indebtedness in the manner pro-
9 vided by this act. The commissioners shall be citizens of the
10 state of West Virginia and residents of the county in the cir-
11 cuit court of which the petition is filed. Not more than two of
12 said commissioners shall be residents of the same magisterial
13 district or affiliated with the same political party, and at least
14 one of said commissioners shall be a regularly qualified practic-
15 ing attorney of said court. No person shall be qualified to
16 serve on such commission if he has any financial interest,
17 directly or indirectly, except as a taxpayer, in any matter to be
18 passed upon by it. Before entering upon the discharge of their
19 duties hereunder, the commissioners shall take the oath pre-
20 scribed by section five, article four, of the constitution. The
21 order appointing said commissioners shall set a day on which
22 the commissioners shall meet at the courthouse of said county
23 and organize by designating one of their number chairman, and
24 one to act as secretary of the commission, and shall direct that
25 the commission forthwith make a preliminary investigation of

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26 the financial affairs of the taxing district and of the official
27 audits and other information available for use in connection
28 with the discharge of their duties hereunder, and shall require
29 that said commission report to the court in writing on a day to
30 be specified in the order, the organization of the commission and
31 the available audits and other information touching the inquiry
32 to be made, and whether or not such audits and other informa-
33 tion are sufficiently complete to enable the commission to dis-
34 charge its duties hereunder.

Sec. 8. If, upon the report of the commission required by
2 section seven of this act, the court be of opinion that the official
3 audits and other information relating to the financial affairs
4 of the taxing district are insufficient to enable the commission
5 to properly discharge its duties, the court shall, by order, re-
6 quest the tax commissioner to complete such audit, or audits,
7 and provide such information as the tax commissioner may
8 reasonably procure incidental to such audit, and the clerk of
9 the court shall forward to the tax commissioner an attested
10 copy of such order; whereupon the tax commissioner shall, at
11 the earliest practical time, cause such audit, or audits, to be
12 completed through the thirtieth day of June, one thousand nine

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13 hundred thirty-three, and shall furnish such other information
14 incident to making of such audit as may be requested by the
15 court, and when such audit, or audits, shall have been com-
16 pleted, the tax commissioner shall make a report in writing to
17 the circuit court and shall transmit therewith such completed
18 audits, together with such other information incidental thereto
19 as shall have been requested by the court. The cost of the making
20 or completion of such audit, or audits, shall be charged to the
21 taxing district or the respective taxing districts so audited,
22 as the case may be, by the tax commissioner, and the charge
23 therefor shall be on the same basis as regular audits, as pro-
24 vided by section eight, article nine, chapter six of the code, and
25 shall be paid by the fiscal body of such taxing district as a part
26 of the cost of the proceeding under this bill in like manner as
27 the payment of other costs is provided for in section fifteen of
28 this bill.

Sec. 9. When no additional audits shall be required, or when
2 such additional audits as may be required shall have been pro-
3 vided, the court shall then, by order, direct the commissioners
4 to sit at the courthouse of said county on a day fixed by said
5 order, and from day to day for such length of time within the

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6 limits prescribed by section fifteen of this bill as the court may
7 deem necessary for the completion of the duties required of
8 such commission, which time of meeting shall be not less than
9 thirty days after the entry of such order, and shall cause the
10 commissioners to give notice by publication for four successive
11 weeks in two newspapers of opposite politics published in the
12 county, if there be two such, if not, then in one newspaper
13 published in the county; and if there be no newspaper pub-
14 lished in the county, then by posting a notice at the front door
15 of the courthouse and at a public place in each magisterial dis-
16 trict and each municipality within the county for thirty days
17 prior to the day of such meeting. The notice shall be sufficient
18 if substantially to the following effect:

19 "NOTICE IS HEREBY GIVEN that the undersigned,
20, and, special
21 commissioners of the circuit court ofcounty,
22 appointed for the purpose of inquiring into and making a re-
23 port on the legality of indebtedness ofcounty,
24district,municipality, (any
25 or all, as the case may require) will sit at the courthouse of
26county on theday of,

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27 193...., and from day to day thereafter until the.....day
28 of....., 19...., for the purpose of discharging their
29 duties under the order of the court entered on the.....day
30 of....., 193...., pursuant to the provision of chap-
31 ter....., acts of the Legislature of West Virginia, second ex-
32 traordinary session, one thousand nine hundred thirty-three.

33 (Signed).....,
34 Commissioners.”

Sec. 10. On the day and at the place provided by the order
2 and notice under section nine, the commission shall meet and
3 the holder and owner, or his representative, of any contractual
4 claim, as herein defined, against the taxing district, whether
5 evidenced by order or otherwise, may present to the commis-
6 sion such claim, and if the claim be not evidenced by order the
7 same may be presented by sworn statement, showing clearly
8 the nature of the claim and the amount thereof, and the com-
9 mission shall carefully inquire into and investigate all of such
10 claims and report to the court thereon in the manner provided
11 by section eleven of this act. The commission shall not approve
12 any claim for which no order shall have been issued, unless the
13 same be first approved by the fiscal body by an order entered

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14 of record in the proper book of the fiscal body. Any taxpayer
15 or other person legally interested, may file before the commis-
16 sion, in writing, any objection or objections to the allowance
17 of any claim in whole or in part, whether evidenced by order
18 or otherwise. When the order of the court under section nine
19 has prescribed a shorter time than the time provided in section
20 fifteen hereof for the sitting of the commissioners, and the com-
21 missioners shall not, within such time, be able to discharge their
22 duties under said order, they shall, in writing, give information
23 thereof to the court, with a statement of the estimated number
24 of additional days required, and the court may, by order, ex-
25 tend, from time to time, the number of days for the sitting,
26 not, however, beyond the number specified in section fifteen
27 hereof.

Sec. 11. The commission, after having fully investigated all
2 claims presented and having received any objections filed against
3 any claim, shall make a report in writing, setting forth sepa-
4 rately for each taxing district for each fiscal body: (a) the
5 claims to the legality and amount of which no objection has
6 been made and which the commissioners unanimously agree to
7 be properly payable; (b) claims to which objections have been

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8 filed but which the commission unanimously agree should be
9 paid; (c) claims to which an objection has been filed but which
10 a majority of the commissioners agree should be paid; (d)
11 claims which a majority of the commissioners agree should not
12 be paid, whether or not any objection has been filed thereto.
13 The report shall itemize separately the approved claims in-
14 curred prior to the eighth day of November, one thousand nine
15 hundred thirty-two, and the approved claims incurred there-
16 after prior to or on June thirtieth, one thousand nine hundred
17 thirty-three. When the claim is represented by an order, the
18 report shall show the date of the order, the number thereof, and
19 the name of the original payee and the name of the present
20 holder. The report shall show the original amount of each
21 claim and, separately, the interest thereon legally accrued, under
22 existing statutes, to the date of the report. The commission
23 shall return to the court, with the report, all written statements
24 of claims presented not evidenced by order and all written
25 objections made to the allowance of any claims.

Sec. 12. The report shall be filed by order of the court. The
2 court shall examine the report and if the court be of opinion
3 that it is not sufficient, it may, by order, re-commit it, in whole

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4 or in part, for further inquiry, to the commission, with such
5 directions as the court may deem proper. Whereupon the re-
6 port shall be completed and again returned to the court. When,
7 in the opinion of the court, the report is complete, the court
8 shall cause notice to be given by publication for two successive
9 weeks in two newspapers of different political affiliation pub-
10 lished in the county, if there be two, and, if not, then in one
11 newspaper published in the county, and if there be no such
12 newspaper published in the county, then by posting a notice
13 at the front door of the courthouse and at a public place in
14 each magisterial district and each municipality within the
15 county for not less than ten days, that on a day certain speci-
16 fied in the notice, the court will act upon the report of the com-
17 mission. The notice shall be sufficient if substantially in form
18 as follows:

19 "Notice is hereby given that the circuit court of
20 county will, on the day of , one thousand nine
21 hundred thirty-....., at o'clock, at the
22 courthouse of county, act upon the report of
23 , , and ,
24 special commissioners, heretofore appointed to report upon the

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25 validity of indebtedness of county,
26 district, municipality (all or any, as the case
27 may be). Any person interested in the affirmance of said re-
28 port or in the making of any objection thereto may then be
29 heard.

30

31

Clerk of the Circuit Court of

32

..... County.”

33 The court may, on its own motion, make further inquiry into
34 any claim and any taxpayer may, at such time, interpose objec-
35 tion in writing to the payment of any claim, whether interposed
36 before the commission or not, and the court may then, by order,
37 affirm all claims unanimously approved by the commission and
38 to which no objection has been filed. The court may then pro-
39 ceed to hear evidence relating to any claim to the payment of
40 which an objection has been interposed or which the court, on
41 its own motion, desires to further investigate.

42 When objection is made to the payment of any claim the
43 holder and owner thereof shall file or cause to be filed in the
44 cause a concise statement of the claim, showing its nature and
45 amount, duly itemized and verified, and the objector to such

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46 claim shall file in writing his or its objection thereto, stating
47 concisely the grounds of such objection, likewise duly verified.
48 Such statements shall constitute the pleadings with respect to
49 such claim and the sufficiency of such statements may be tested
50 by demurrer. When such statements are sufficient in law, issue
51 may be joined thereon. Technical pleadings and forms shall
52 not be required.

53 When the court approves the report, or any part thereof, or
54 any particular claim, the order shall show in detail the descrip-
55 tion of each separate claim as shown by the report, and the
56 clerk shall transmit a copy of such order insofar as it pertains
57 to each taxing district to the fiscal body, which shall cause the
58 same to be entered in full on its proper record book.

Sec. 13. Any claimant whose claim has not been approved
2 by the court under section eleven of this bill, or any protestant
3 against any such claim may, as to any and all matters of fact
4 involved, have the validity of such claim considered by a jury,
5 according to the rules applicable to the trial of an action at
6 law, by making application in writing for such jury trial on or
7 before the day of the hearing by the court, whereupon the con-

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8 troversy relative to such claim upon the pleadings provided
9 by section twelve of this act shall be docketed on the law side
10 of the court for such trial and shall be tried as in an action at
11 law. Upon the termination of such law action the judgment
12 shall be reported to the equity side of the court for the entry
13 of a proper order in the premises. The failure of any party
14 to demand a jury trial shall constitute a waiver thereof by all
15 parties interested in the controversy relating to such claim, and
16 the court may hear evidence in support of or against such claim,
17 and shall make such findings as would be proper upon the
18 merits in an action at law upon formal waiver of trial by jury
19 by all parties. A writ of error to the judgment of the circuit
20 court on any claim may be had to the supreme court of appeals
21 of West Virginia in like manner as a writ of error in an action
22 at law.

Sec. 14. The court for any reason in its opinion deemed
2 proper, may reconstitute the commission in whole or in part.

Sec. 15. Each commissioner shall be allowed for his services
2 a per diem to be fixed by the court, not to exceed five dollars
3 for each day actually engaged in the discharge of his duties
4 hereunder, not to exceed thirty days. The court may allow

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5 a per diem not to exceed three dollars for a period of not to
6 exceed forty-five days of actual employment for stenographic
7 and clerical services incident to the hearings by the commission
8 and the compilation of its report. When such period of time
9 is not sufficient for the completion of the work of the commis-
10 sion in pursuance of this act, the time may be extended by
11 order of the court upon the written request of the commission,
12 approved in writing by the tax commissioner. Where more
13 than one taxing district is involved the court shall apportion
14 the general costs equitably among the taxing districts con-
15 cerned, and no costs other than those specifically mentioned
16 herein shall be incurred by the commission without the express
17 order of the court therefor. When a claim, to the payment of
18 which objection has been made by the prosecuting attorney, any
19 fiscal body or any member thereof, is successfully prosecuted
20 by the claimant, the costs of the hearing thereon shall be charged
21 to the taxing district concerned. If such claimant fail to
22 establish the validity of such claim, the taxing district shall
23 recover its costs from the claimant. If the contest of any claim
24 arises from the objection of a taxpayer or other person legally
25 interested, the costs shall abide the final disposition of the

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26 claim and shall be charged against the parties in like manner
27 as costs are charged in an action at law. The costs of the pro-
28 ceedings hereunder, except as above expressly provided, shall
29 be paid from the levies laid and collected for the payment of
30 indebtedness involved, and the proper fiscal body in laying
31 such levies shall include therein the estimated amount of such
32 costs.

Sec. 16. Any claim finally adjudicated in the proceeding
2 herein provided for shall not thereafter be litigated in any
3 other judicial proceeding, but any claimant who does not present
4 his claim in such proceeding shall not be precluded thereby and
5 may have his claim adjudicated in any other proper proceeding
6 at law or in equity.

Sec. 17. No fiscal body and no officer of any taxing district
2 for which the tax commissioner has required the filing of a pe-
3 tition under this act as provided by section four hereof, shall
4 pay any indebtedness claims or order unless the same shall
5 have been adjudicated under the provisions of this act or other-
6 wise reduced to judgment. For the purpose of this act the fiscal
7 body shall for the fiscal year beginning July first, one thousand
8 nine hundred thirty-three, lay such levies authorized under ex-

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9 isting law, as may be approved or required by the tax commis-
10 sioner. As soon as reasonably practicable after the circuit
11 court shall have acted upon the report of the commissioners as
12 provided by section twelve of this act, the fiscal body shall meet
13 and shall consider such indebtedness adjudicated under the
14 provisions of this act along with any other indebtedness reduced
15 to judgment in other proceedings, and under the regulations of
16 the tax commissioner, as provided by section nineteen of this
17 act, and, subject to the approval of the tax commissioner, shall
18 determine a program of payment from estimated receipts from
19 delinquent taxes levied for the fiscal year beginning July first,
20 one thousand nine hundred thirty-two, and for prior years, and
21 by successive annual levies for not more than ten years includ-
22 ing the fiscal year beginning July first, one thousand nine hun-
23 dred thirty-three.

Sec. 18. There is hereby created in each and every taxing
2 district having indebtedness as defined by this act an "indebted-
3 ness fund other than bonded" which fund shall be used for the
4 purpose of payment of such indebtedness. Into this fund shall
5 be paid all money now in the hands of any public officer which
6 was derived from the collection of taxes for the fiscal year be-

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7 ginning July first, one thousand nine hundred thirty-two and
8 taxes for prior years, which taxes were levied by the fiscal body
9 for the particular taxing district for purposes other than
10 bonded indebtedness; and all collections of like delinquent taxes
11 made hereafter shall, by the officer collecting the same, be paid
12 to such indebtedness fund. All levies collected under the pro-
13 visions of house bill number two hundred thirty-four, second
14 extraordinary session one thousand nine hundred thirty-three,
15 for indebtedness, other than bonded, shall also be paid to said
16 indebtedness fund. No funds received from the collection of
17 delinquent taxes hereafter made shall be used for the payment
18 of the current expenses of any fiscal body or taxing district so
19 long as any such indebtedness as defined by this act or any
20 interest thereon remains unpaid; but all such delinquent taxes
21 when collected, except those levied for the payment of bonded
22 indebtedness, shall be paid into the proper indebtedness fund
23 hereby created.

Sec. 19. The tax commissioner shall promulgate regulations
2 to govern fiscal bodies in the payment of the claims approved by
3 the circuit court under the authority of this act and other
4 claims properly reduced to judgment. The regulations pro-

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5 mulgated by the tax commissioner shall be with view to the pay-
6 ment of indebtedness as defined in this act at as early a date
7 as is reasonably consistent with the interests of the State of West
8 Virginia and the taxpayers thereof, and with possible levies
9 therefor under section twenty-three, of house bill number two
10 hundred thirty-four, second extraordinary session, one thou-
11 sand nine hundred thirty-three, and such regulations may be
12 promulgated for use in the alternative as the circumstances of
13 the particular taxing district may require; and such general
14 regulations shall in no event be considered to be exclusive of
15 the promulgation of a special regulation or the approval of a
16 special plan of payment for any particular taxing district. By
17 way of illustration, if such indebtedness may within a reason-
18 able time be paid from the levies under house bill number two
19 hundred thirty-four, other than those provided by section
20 twenty-three, a plan of payment based thereon may be adopted;
21 or if in any particular taxing district the laying of a reasonable
22 levy under said section twenty-three might accomplish the pay-
23 ment of such indebtedness within a lesser period of time con-
24 sistent with the interest of the state of West Virginia and the

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Chairman House Committee.

25 taxpayers thereof, a plan utilizing such levies under said sec-
26 tion twenty-three and effecting payment at an earlier time may
27 be promulgated and adopted.

28 Any and all regulations promulgated by the tax commissioner
29 and any plan of payment adopted by the fiscal body with the
30 approval of the tax commissioner, shall embody the principles
31 that (1) payments shall be made pro rata upon all approved
32 claims from year to year, except that payment of small claims
33 not to exceed one hundred dollars may be made from the re-
34 ceipts of the first two years; (2) the annual payment of interest
35 shall not exceed the legal rate upon all deferred installments
36 including the fixing of the time for the payment of interest;
37 (3) the anticipation of all or any part of deferred payments
38 prior to the time stipulated therefor, including the selection by
39 lot of such certificates of indebtedness as shall be anticipated
40 if less than all, and the termination of interest after reasonable
41 notice of the selection of any certificate of indebtedness for pay-
42 ment.

Sec. 20. When, in the judgment of the fiscal body, subject
2 to the approval of the tax commissioner, the payment of such
3 indebtedness by one levy, together with estimated receipts from

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4 delinquencies, would be unnecessarily burdensome in view of the
5 existing emergency, the fiscal body shall determine the number
6 of years' not exceeding ten, for which successive levies shall be
7 laid, and shall prepare a statement showing: (a) the total
8 amount of such indebtedness adjudicated under the provisions
9 of this act or reduced to judgment; (b) what levies, if any, re-
10 main from the apportionments of levies for debt purposes to
11 such fiscal body under the provisions of house bill number two
12 hundred thirty-four other than section twenty-three thereof,
13 after making provision for bonded indebtedness as therein re-
14 quired; (c) the levies, if any, laid under section twenty-three of
15 house bill number two hundred thirty-four for bonded indebted-
16 ness of such taxing district; (d) the estimated amount of de-
17 linquent taxes to be received applicable to the payment of such
18 indebtedness, showing the estimated amount to be received for
19 each year during the period for which the payment of such in-
20 debtedness is extended; (e) the assessed valuation of all prop-
21 erty subject to taxation within the taxing district by classifica-
22 tions; (f) the rate of levy required, if any, under section twenty-
23 three of house bill number two hundred thirty-four, if such in-
24 debtedness were to be paid by a single levy.

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Sec. 21. Before any such plan shall be finally adopted, it
2 shall be submitted to the tax commissioner, who may approve or
3 disapprove it. If the tax commissioner disapproves the plan
4 submitted, he shall direct the changes therein to be made or shall
5 direct the making of another plan in keeping with the provisions
6 hereof. If the fiscal body does not agree to any plan of pay-
7 ment finally promulgated and approved by the tax commis-
8 sioner, then the order of the tax commissioner promulgating the
9 plan shall be final and the adoption of such plan by the fiscal
10 body may be enforced by the tax commissioner in any appro-
11 priate proceeding or proceedings in law or equity. When a plan
12 shall have received the approval of the tax commissioner, the
13 fiscal body shall proceed to issue refunding certificates in the
14 manner provided by section twenty-three hereof.

Sec. 22. If at any time prior to the payment of all such in-
2 debtedness and the interest on the deferred installments thereof,
3 the tax commissioner be satisfied that the financial affairs of the
4 taxing district have improved, the tax commissioner may require
5 the fiscal body to accelerate the payment of such deferred in-
6 stallments and to make full payment of all such indebtedness
7 prior to the time of final payment set out in the original plan.

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Anna D. Hyatt

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Sec. 23. Promptly upon the adoption of such payment plan,
2 the fiscal body shall, at the request of the holder of any order
3 approved under this act, or of any claim otherwise reduced to
4 judgment, issue to the holder thereof in lieu of such orders or
5 claims and upon the proper release of any such judgment, a
6 certificate, or certificates, of indebtedness payable out of the
7 indebtedness fund provided by section eighteen of this act in
8 form prescribed by the tax commissioner as provided by section
9 twenty-four. Such certificates of indebtedness may be issued
10 one certificate for each annual payment to be made, or may be
11 issued in the form of coupon certificate of indebtedness with a
12 coupon to evidence such annual payment of principal together
13 with interest accruing on the whole certificate remaining unpaid
14 at the date of the payment of such coupon.

14-a Any person owning more than one claim, order or judgment
15 against the same fund may require one certificate to be issued
16 for the aggregate amount of his several claims.

17 All orders and proofs of claim received in exchange for such
18 certificates of indebtedness shall be stamped across the face
19 thereof "paid by refunding certificate no....." and shall
20 be cancelled and filed with the records of the fiscal body.

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James A. Dwyer

Chairman House Committee.

Chairman Senate Committee.

Sec. 24. The tax commissioner shall prescribe the form of
2 the certificates of indebtedness hereunder, which shall contain a
3 brief description of the order, claim or claims of the indebted-
4 ness refunded by such certificate.

Sec. 25. Any certificate of indebtedness evidencing an an-
2 nual payment of any certificate of indebtedness coupon evi-
3 dencing an annual payment of principal and/or interest shall
4 constitute a voucher in the hands of the sheriff for which he
5 shall receive credit in his settlements.

Sec. 26. If any section, paragraph, sentence, clause, word
2 and/or application of any part hereof be held unconstitutional,
3 the same shall not affect the validity of the remaining portions.
4 All acts or parts of acts, both general and special, incon-
5 sistent with the provisions of the act, are hereby repealed.

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Thomas K. Hyne
.....
Chairman Senate Committee.

Wm. S. O'Brien
.....
Speaker of the House of Delegates.

Wm. S. O'Brien
.....
Clerk of the House of Delegates.

Wm. S. O'Brien
.....
President of the Senate.

Wm. S. O'Brien
.....
Clerk of the Senate.

James L. Smith
.....
Chairman House Committee.

The within is.....*approved*.....

this.....*30th*.....day of.....*January*....., 1934.

Wm. S. O'Brien
.....
Governor.