

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935

ENROLLED

HOUSE BILL No. 165

(By Mr. Thomas)

PASSED March 8 1935

In Effect from Passage

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House Bill No. 165

(BY MR. THOMAS)

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AN ACT to authorize municipalities to establish, construct, acquire, extend, own, operate, equip, maintain and improve municipal public works and to defray the cost of such construction, equipment, acquisition, extensions and improvements by issuing revenue bonds, secured by and payable from the revenues of such systems; to authorize charges for the use of such municipal public works and to provide for the collection of same.

Be it enacted by the Legislature of West Virginia:

Section 1. (a) The term "municipality", as used in this
2 act, shall be construed to mean any city or incorporated town
3 in the state of West Virginia; (b) the term "municipal au-
4 thorities", as used in this act, shall be construed to mean the
5 mayor and council, or similar governing body, board or com-

6 mission of any city or incorporated town; (c) the term “mu-
7 nicipal public works”, as used in this act, shall be construed
8 to mean and include cemeteries, incinerator plants, hospitals,
9 piers, docks, terminals, airports, drainage systems, flood control
10 systems, public markets, stadiums, public recreation parks, swim-
11 ming pools, tennis courts, golf courses, polo grounds, public
12 buildings, including libraries and museums, common jails,
13 grading and/or paving, and/or re-paving streets and alleys,
14 where such works or projects will be made self-supporting, and
15 the construction and/or acquisition cost thereof, together with
16 interest thereon, will be returned within a reasonable period,
17 not exceeding thirty years, by means of tolls, fees, rents or
18 charges other than taxation, and shall mean and include such
19 system, building, plant or project in its entirety, and all in-
20 tegral parts thereof.

Sec. 2. Every municipality in the state of West Virginia
2 is hereby authorized and empowered to construct, acquire or
3 equip, operate, maintain and/or enlarge, extend or increase
4 any of the municipal public works described in section one,
5 of this act, together with all appurtenances necessary, useful or
6 convenient for the maintenance and operation of such works, and

7 shall have authority to acquire by gift, grant, purchase, con-
8 demnation or otherwise, all necessary lands, rights of way and
9 property therefor within and/or without the corporate limits
10 of such municipality, and to issue revenue bonds to pay the
11 costs of such public works and property; *Provided, however,*
12 That this section shall not be construed to authorize any mu-
13 nicipality to construct, acquire, own, equip, operate or main-
14 tain any works which would render a service already being ade-
15 quately rendered within such municipality. No obligation shall
16 be incurred by the municipality in such construction, acquisi-
17 tion, extension or improvement, except such as is payable solely
18 from the funds provided under the authority of this act.

Sec. 3. The construction, acquisition, improvement, exten-
2 sion, equipment, custody, operation and maintenance of any
3 such works, and the collection of revenues therefrom for the
4 service rendered thereby, shall be under the supervision and
5 control of the municipal authorities, or of a board, commission
6 or committee appointed by such municipal authorities as may be
7 determined by general orders. The term "board" when here-
8 after used in this act, shall be construed to mean the munici-

9 pal authorities, or such board, commission or committee, as
10 the case may be.

Sec. 4. The board shall have power to take all steps and
2 proceedings, and to make and enter into all contracts or agree-
3 ments necessary or incidental to the performance of its duties
4 and the execution of its powers under this act; *Provided*, That
5 any contract relating to the financing, or the acquisition, con-
6 struction, extension or improvement of any such works, or any
7 trust indenture as hereafter provided for, shall be approved
8 by the municipal authorities.

9 The board may employ engineers, architects, inspectors,
10 superintendents, managers, collectors, attorneys and such
11 other employees as in its judgment may be necessary in the
12 execution of its powers and duties, and may fix their compensa-
13 tion, all of whom shall do such work as the board may direct.
14 All such compensation and expense incurred in carrying out the
15 provisions of this act shall be paid solely from funds provided
16 under the authority of this act, and the board shall not exer-
17 cise or carry out any authority or power herein given it so
18 as to bind said board or said municipality beyond the extent
19 to which money shall have been, or may be provided under the

20 authority of this act. No contract or agreement with any con-
21 tractor or contractors for labor and/or materials, exceeding in
22 amount the sum of one thousand (\$1,000) dollars shall be made
23 without advertising for bids, which bids shall be publicly opened
24 and award made to the lowest responsible bidder, with power in
25-26 the board to reject any and all bids. After the construction,
27 installations and completion of the works or the acquisition
28 thereof, the board shall operate, manage and control the same,
29 and may order and complete any extensions, betterments and im-
30 provements of and to the works that the board may deem ex-
31 pedient, if funds therefor be available, or are made available, as
32 provided in this act, and shall establish rules and regulations
33 for the use and operation of the works, and do all things nec-
34 essary or expedient for the successful operation thereof. All
35 public ways or public works damaged or destroyed by the
36 board in carrying out its authority under this act, shall be re-
37 stored or repaired by the board and placed in their original
38 condition, as nearly as practicable, if requested so to do by
39 proper authority, out of the funds provided by this act.

Sec. 5. All necessary preliminary expenses actually incurred
2 by the board of any municipality in the making of surveys,

3 estimates of cost and of revenues, employment of engineers or
4 other employees, the giving of notices, taking of options, and
5 all other expenses of whatsoever nature necessary to be paid
6 prior to the issue, sale and delivery of the revenue bonds here-
7 in provided for, may be paid by the municipality, to be re-
8 imbursed and repaid out of the proceeds of the sale of such
9 revenue bonds to be used for the construction, acquisition, ex-
10 tension or improvement of such works as hereinafter provided.

Sec. 6. Before any municipality shall construct, acquire,
2 improve or extend any works under this act, the municipal
3 authorities shall enact an ordinance or ordinances, or shall
4 adopt a proper resolution which shall (a) set forth a brief
5 and general description of the works, and if the same are to be
6 constructed, a reference to the preliminary report or plans and
7 specifications which shall theretofore have been prepared; (b)
8 set forth the estimated cost thereof; (c) order the construction,
9 acquisition, extension or improvement of such works; (d) direct
10 that revenue bonds of the municipality be issued pursuant to
11 this act; in such amount as may be found necessary to pay
12 the cost of the works; and (e) contain such other provisions
13 as may be necessary or proper in the premises. Before such

14 ordinance shall become effective, it shall be published once each
15 week for two successive weeks in two newspapers of oppo-
16 site political faith published in such municipality, or in one
17 newspaper, if only one political faith is represented by news-
18 papers in the said municipality, or, if there be no newspapers
19 so published, then such ordinance shall be posted in at least three
20 public places therein. Said notice shall specify a time and place
21 for a public hearing, the time being not less than ten days after
22 the first publication or posting of said notice at which time and
23 place all parties and interests may appear before the municipal
24 authorities, and may be heard as to whether or not said ordi-
25 nance shall be put into effect. At such hearing all objections
26 and suggestions shall be heard and the governing body shall take
27 such action as it shall deem proper in the premise: *Provided,*
28 *however,* That if at such hearing written protest is filed by
29 thirty percent or more of the owners of real estate situate in
30 said municipality, then the governing body of said municipality
31 shall not take further action unless four-fifths of the members of
32 said governing body assent thereto: *Provided further,* That in
33 case written protet is filed by thirty percent or more of owners
34 of real estate as herein provided, the governing body shall have

35 authority to appoint a committee to consist of one proponent,
36 one opponent and the third to be selected by these two, to de-
37 termine whether or not thirty percent of the property owners
38 have in fact protested and said committee shall report its find-
39 ings to the governing body.

Sec. 7. Every such municipality shall have power to con-
2 demn any such municipal public works to be acquired, and any
3 land, rights, easements, franchises and other property, real
4 or personal, deemed necessary or convenient for the construc-
5 tion of any such works, or for extensions, improvements or
6 additions thereto, and in connection therewith shall have and
7 may exercise all the rights, power and privileges of eminent
8 domain granted to municipalities under the laws relating there-
9 to. Title to property shall be taken in the name of the munici-
10 pality. Proceedings for such appropriation of property shall
11 be under and pursuant to the general provisions of law relating
12 to condemnation proceedings in the exercise of eminent do-
13 main; *Provided*, The municipality shall be under no obliga-
14 tion to accept and pay for any property condemned, and shall
15 in no event pay for any property condemned or purchased, ex-
16 cept from the funds provided, pursuant to this act; and in

17 any proceedings to condemn, such orders may be made as may
18 be just to the municipality and to the owners of the property
19 to be condemned; and an understanding or other security may
20 be required securing such owners against any loss or damage
21 which may be sustained by reason of the failure of the munici-
22 pality to accept and pay for the property, but such under-
23 taking or security shall impose no liability upon the munici-
24 pality, except such as may be paid from the funds provided
25 under the authority of this act.

26 In the event of acquisition by purchase, the board may ob-
27 tain and exercise an option from the owners of said property
28 for the purchase thereof, and may enter into a contract for the
29 purchase thereof, and such purchase may be made upon such
30-31 terms and conditions, and in such manner as the board may
32 deem proper; *Provided, however,* That such exercise of option,
33 purchase, or contract for such purchase shall in no event bind
34 or obligate said municipality, or create any debt, liability or
35 claim, except such as may be paid from the funds provided
36 under the authority of this act.

37 In the event of the acquisition of any works already con-
38 structed by purchase or condemnation, the board at or before

39 the time of the adoption of the ordinance or resolution de-
40 scribed in section six hereof, shall cause to be determined what
41 repairs, replacements, additions and betterments will be neces-
42 sary, in order that such works may be effective for their pur-
43 pose, and an estimate of the cost of such improvements shall
44 be included in the estimate of the cost required by section six
45 hereof, and such improvement shall be made upon the acquisi-
46 tion of the works and as a part of the cost thereof; *Provided,*
47 *however,* That no municipality shall, under the authority con-
48 ferred by the act, condemn any existing privately owned works
49 in operation at the date of the condemnation.

Sec. 8. Whenever any municipality now, or hereafter, shall
2 own and operate any of the works herein referred to, whether
3 constructed under the provisions of this act or not, and shall
4 desire to construct improvements, enlargements, extensions and
5 betterments thereto, it may issue revenue bonds, under the pro-
6 visions of this act, to pay for the same, and the procedure there-
7 for, including fixing all rates and the computation of the
8 amount thereof, shall be the same as in this act provided for
9 the issuance of bonds for acquisition or construction of such
10 works in or by the municipality which has not theretofore

11 owned and operated such works; *Provided, however,* That no
12 existing obligations or rights shall be affected or impaired
13 thereby.

Sec. 9. The cost of the works shall be deemed to include
2 the cost of the acquisition or construction thereof, the cost
3 of all property rights, easements and franchises deemed nec-
4 essary or convenient therefor and for the improvements de-
5 termined upon, as provided in section seven of this act; in-
6 terest upon bonds prior to and during construction or acqui-
7 sition and for six months after completion or construction or
8 of acquisition of the improvements last mentioned; engineering
9 and legal expense; expense for estimates of cost and of reve-
10 nues; expenses for plans, specifications and surveys; other
11 expenses necessary or incident to determining the feasibility
12 or practicability of the enterprise, administrative expense, and
13 such other expenses as may be necessary or incident to the
14 financing herein authorized, and the construction or acqui-
15 sition of the works and the placing of the works in operation,
16 and the performance of the things herein required or per-
17 mitted in connection with any thereof.

Sec. 10. Nothing in this act contained shall be so construed

2 as to authorize or permit any municipality to make any con-
3 tract or incur any obligation of any kind or nature, except such
4 as shall be payable solely from the funds provided under this
5 act. Funds for the payment of the entire cost of the works
6 shall be provided by the issuance of revenue bonds of the
7 municipality, the principal and interest of which bonds shall
8 be payable solely from the special fund herein provided for
9 such payment, and said bonds shall not in any respect be a cor-
10 porate indebtedness of such municipality. All such bonds shall
11 be exempt from taxation by the state of West Virginia or any
12 county or municipailty therein. All of the details of such bonds
13 and the issuance thereof shall be determined by ordinance or
14 resolution of the municipal authorities.

Sec. 11. Such revenue bonds shall bear interest at not more
2 than six (6%) percent per annum, payable annually, or at
3 shorter intervals, and shall mature at such time or times, not ex-
4 ceeding thirty years, as may be determined by ordinance or reso-
5 lution. Such bonds may be made redeemable before maturity,
6 at the option of the municipality, to be exercised by said board,
7 at not more than the par value thereof, and the premium of not
8 more than five (5%) percent, under such terms and conditions

9 as may be fixed by the ordinance or resolution authorizing the is-
10 suance of the bonds. The principal and interest of the bonds
11 may be made payable in any lawful medium. Said ordinance or
12 resolution shall determine the form of the bonds, including
13 the interest coupons to be attached thereto, and shall fix the
14 denomination or denominations of such bonds, and the place or
15 places of the payment of the principal and interest thereof,
16 which may be at any bank or trust company within or with-
17 out the state. The bonds shall contain a statement on their
18 face that the municipality shall not be obligated to pay the
19 same, or the interest thereon, except from the special fund de-
20 rived from the net revenue of the works, or the pro rata part
21 thereof, as provided for in section eight hereof. All such bonds
22 shall be, and shall have, and are hereby declared to have all
23 the qualities and incidents of negotiable instruments, under
24 the negotiable instruments law of this state. Provision may
25 be made for the registration of any of the bonds in the name
26 of the owner as to principal alone; but bonds shall be executed
27 in such manner as the municipal authorities may direct. The
28 bonds shall be sold by the municipal authorities in such manner
29 as may be determined to be for the best interest of the munici-

30 pality; provided, however, that said bonds shall not be nego-
31 tiated at a price lower than a price which computed to maturity
32 upon standard tables of bond values will show a net return of
33 six per cent per annum to the purchaser upon the amount
34 paid therefor. Any surplus of the bonds proceeds over and
35 above the cost of the works shall be paid into the sinking
36 fund hereinafter provided. If the proceeds of the bonds, by
37 error of calculation, or otherwise, shall be less than the cost
38 of the works, additional bonds may in like manner be issued
39 to provide the amount of such deficit, and, unless otherwise
40 provided in the ordinance or resolution authorizing the issuance
41 of the bonds first issued, or in the trust indenture hereinafter
42 authorized, shall be deemed to be of the same issue, and shall
43 be entitled to payment without preference or priority of the
44 bonds first issued, but such preference or priority shall not
45 extend to an amount exceeding ten per centum of the original
46 issue. Prior to the preparation of the definite bonds, interim
47 certificates may, under like restrictions be issued with or with-
48 out coupons exchangeable for definite bonds upon the issuance
49 of the latter.

Sec. 12. No municipal official or member of the board shall

2 in any event be personally liable upon any contract or obliga-
3 tion of any kind or character executed under the authority
4 herein contained, even if said undertaking should hereafter
5 be held *ultra vires*.

Sec. 13. The municipal authorities may provide by the said
2 ordinance or resolution authorizing the issuance of the bonds
3 or in the trust indenture hereinafter referred to, that addi-
4 tional bonds may thereafter be authorized and issued at one
5 time, or from time to time, under such limitations and restric-
6 tions as may be set forth in said ordinance, resolution and/or
7 trust indenture, for the purpose of extending, improving or
8 bettering the works when deemed necessary in the public in-
9 terest, such additional bonds to be secured, and be payable
10 from the revenues of the works, as provided for in section eight
11 of this act.

Sec. 14. All moneys received from the sale of any bonds
2 issued pursuant to this act, after reimbursements and repay-
3 ments to said municipalities of all amounts advanced for pre-
4 liminary expenses, as provided in section five of this act, shall
5 be applied solely to the payment of the cost of the works, ex-
6 tensions, improvements, or betterments, or to the appurtenant

7 sinking fund, and there shall be, and hereby is created and
8 granted a lien upon such money, until so applied, in favor
9 of the holders of the bonds or the trustees hereinafter provided
10 for.

Sec. 15. In the discretion and at the option of the municipi-
2 pal authorities such bonds may be secured by a trust indenture
3 by and between the municipality and a corporate trustee,
4 which may be a trust company or bank having powers of a
5 trust company within or without the state of West Virginia,
6 but no such trust indenture shall convey, mortgage or create
7 any lien upon the works or any part thereof. The ordinance
8 or resolution authorizing the revenue bonds, and fixing the
9 details thereof, may provide that such trust indenture may con-
10 tain such provisions for protecting and enforcing the rights
11 and remedies of bond holders as may be reasonable and proper,
12 not in violation of law, including covenants setting forth the
13 duties of the municipality and the board in relation to the
14 construction or acquisition of the works and the improvement,
15 operation, repair, maintenance and insurance thereof, and the
16 custody, safeguarding and application of all moneys, and may
17 provide that the works shall be contracted for, constructed and

18 paid for, under the supervision and approval of the consulting
19 engineers employed or designated by the board and satis-
20 factory to the original bond purchasers, their successors, as-
21 signees or nominees who may be given the right to require the
22 security given by contractors and by any depositary of the pro-
23 ceeds of bonds or revenues of the works or other moneys per-
24 taining thereto be satisfactory to such purchasers, their suc-
25 cessors, assignees or nominees. Such indenture may set forth
26 the rights and remedies of the bond holders and/or such trus-
27 tee. Except as in this act otherwise provided, the municipal
28 authorities may provide by ordinance or resolution or in such
29 trust indenture, for the payment of the proceeds of the sale of
30 the bonds and the revenues of the works to such officer, board
31 or depositary, as it may determine, for the custody thereof,
32 and for the method of distribution thereof, with such safe-
33 guards and restrictions as it may determine.

Sec. 16. At or before the issuance of any such bonds, the
2 municipal authorities shall, by ordinance or resolution, pro-
3 vide for a sinking fund for the payment of the bonds and the
4 interest thereon, and the payment of the charges of banks or
5 trust companies for making payment of such bonds, and in-

6 terest, out of the net revenues of said works, and shall set aside
7 and pledge a sufficient amount of the net revenues of the works
8 hereby defined to meet 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 and sinking fund at intervals, to be determined by ordinance or
12 resolution adopted prior to the issuance of the bonds, for (a)
13 the interest upon such bonds as such interest shall fall due; and
14 (b) the necessary fiscal agency charges for paying bonds and
15 interest; (c) the payment of the bonds as they fall due, or if
16 all bonds mature at one time, the proper maintenance of a
17 sinking fund sufficient for the payment thereof at such time,
18 and (d) a margin for safety and for the payment of premium
19 upon bonds retired by call or purchase as herein provided,
20 which margin, together with unused surplus of such margin
21 carried forward from the preceding year, shall equal ten (10%)
22 percent of all other amounts so required to be paid into the sink-
23 ing fund. Such required payments shall constitute a first
24 charge upon all the net revenues of the works. Prior to the
25 issuance of the bonds, the board may, by ordinance or resolu-
26 tion, be given the right to use or direct the trustee or the State

27 Sinking Fund Commission to use such sinking fund, or any
28 part thereof, in the purchase of any of the outstanding bonds
29 payable therefrom, at the market prices thereof, but not exceed-
30 ing the price, if any, at which the same shall in the same year
31 be payable or redeemable, and all bonds redeemed or pur-
32 chased shall forthwith be cancelled, and shall not again be
33 issued. After the payments into the sinking fund as herein
34 required, the board may at any time in its discretion, transfer
35 all or any part of the balance of the net revenues, after re-
36 serving an amount deemed by the board sufficient for oper-
37 ation, repair and maintenance for an ensuing period of not less
38 than twelve months and for depreciation, into the sinking
39 fund, or into a fund for extensions, betterments and additions
39-a to the works.

40 All amounts for sinking fund and interest, as and when set
41 apart for the payment of same, shall be remitted to the State
42 Sinking Fund Commission at such periods as shall be desig-
43 nated in the ordinance, but in any event at least thirty days
44 previous to the time interest or principal payments become
45 due, to be retained and paid out by said Commission con-
46 sistent with provisions of this act and the order pursuant to

47 which such bonds have been issued. The State Sinking Fund
48 Commission is hereby authorized to act as fiscal agent for the
49 administration of such sinking fund under any order passed
50 pursuant to the provisions of this act and shall invest all sink-
51 ing funds as provided by general law.

Sec. 17. Municipal authorities shall have the power, and it
2 shall be their duty, by ordinance or resolution, to establish and
3 maintain just and equitable rates or charges for the use and
4 services rendered by such works, to be paid by the person using
5 the same or receiving the services thereof, and may readjust such
6 rates or charges from time to time. Such rates or charges shall
7 be sufficient in each year for the payment of the proper and
8 reasonable expenses of operation, repair, replacements and
9 maintenance of the works, and for the payment of the sums
10 herein required to be paid into the sinking fund.

11 Revenues collected pursuant to this section shall be deemed
12 the revenues of the works. No such rates or charges shall be
13 established until after a public hearing at which all the users
14 of the works and/or owners of the property served, or to be
15 served thereby, and others interested, shall have an opportunity
16 to be heard concerning the proposed rates or charges. After

17 introduction of proposal of the ordinance or resolution fixing
18 such rates or charges and before the same is finally enacted or
19 passed, notice of such hearing, setting forth the proposed
20 schedule of such rates or charges, shall be given by publishing
21 same once each week for two successive weeks in two newspapers
22 of opposite political faith published in such municipality, or in
23 one newspaper, if only one political faith is represented by
24 newspapers in the said municipality, or, if there be no news-
25 papers so published, then such ordinances shall be posted in
26 at least three public places therein, the first publication or
27 posting of said notice to be at least ten days before the date fixed
28 in such notice for the hearing, which hearing may be adjourned
29 from time to time. No other or further notice to parties at in-
30 terest shall be required. After such hearing the ordinance or res-
31 olution establishing rates or charges, either as originally pro-
32 posed or introduced, or as modified and amended, shall be passed
33 or adopted and put into effect. A copy of the schedule of such
34 rates and charges so established shall be kept on file in the office
35 of the board having charge of the operation of such works, and
36 also in the office of the municipal authorities, and shall be open
37 to inspection by all parties interested. The rates or charges so

38 established for any class of users or property served, [§] shall be ex-
39 tended to cover any additional class of users or property there-
40 after served which fall within the same class, without the neces-
41 sity of any hearing or notice. Any change or readjustment of
42 rates may be made in the same manner as such rates or charges
43 were originally established as hereinabove provided. The aggre-
44 gate of the rates or charges shall always be sufficient for such ex-
45 pense of operation, repairs and maintenance, and for such sink-
46 ing fund payments. If any service rate, charge or fee so estab-
47 lished shall not be paid within thirty days after the same is due,
48 the amount thereof may be recovered by the board in a civil
49 action in the name of the municipality, and in the case of
50 charges due for services rendered, such charges, if not paid
51 when due, may, if council so provide in the ordinance provided
52 for under section six of this act, constitute a lien upon the
53 premises served by such works, which lien may be foreclosed
54 against such lot, parcel of land or building so served, in accord-
55 ance with the laws relating to the foreclosure of liens on real
56 property. Upon failure of any person receiving any such serv-
57 ice to pay for same when due, the board may discontinue such
58 service without notice.

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Geo. S. Hall
Aug 20, 1906

Sec. 18. If any party in interest is dissatisfied with the rates
2 fixed under the provisions of the foregoing section, such party
3 shall have the right to appeal to the public service commission
4 of West Virginia at any time within thirty days after the fixing
5 of such rates by the municipal authorities, but the rates so fixed
6 by the municipal authorities under the provisions of the fore-
7 going section shall remain in full force and effect, until set
8 aside, altered or amended by the public service commission.

Sec. 19. Any municipality issuing revenue bonds under the
2 provisions of this act, shall install and maintain a proper system
3 of accounting, showing the amount of revenue received and the
4 application of the same, and the municipal authorities shall, at
5 least once a year, cause such accounts to be properly audited by
6 a competent auditor, and the report of such auditor shall be
7 open for inspection at all proper times to any taxpayer, citizen
8 of said municipality, or person receiving service from said
9 works, or any holder of bonds issued under the provisions of
10 this act, or anyone acting for and in behalf of such taxpayer,
11 citizen or bond holder. The treasurer of such municipality, or
12 other official or institution specifically charged by it with the
13 duty, shall be custodian of the funds derived from income re-

14 ceived from said works, constructed either in whole or in part
15 under the provisions of this statute, and shall give proper bond
16 for the faithful discharge of his or its duties as such custodian,
17 which bond shall be fixed and approved by the municipal au-
18 thorities. All of the funds received as income from said works,
19 constructed in whole or in part under the provisions of this act,
20 and all funds received from the sale of revenue bonds issued to
21 construct such works, shall be kept separate and apart from
22 other funds of the municipality, and separate accounts shall be
23 maintained for the several items required to be set up by section
24 fifteen of this act.

Sec. 20. The municipality shall be subject to the same charges
2 and rates established as hereinbove provided, or to charges and
3 rates established in harmony therewith, for service rendered the
4 municipality, and shall pay such rates and charges, when due,
5 from corporate funds, and the same shall be deemed to be a
6 part of the revenues of the works as herein defined, and may be
7 applied as herein provided for the application of such revenue.

Sec. 21. The municipal authorities may, in their discretion,
2 provide by ordinance that the custody, administration, operation
3 and maintenance of public works shall be under the supervision

4 and control of a board as provided by section three hereof, and
5 in such case, the municipal authorities may provide, by ordi-
6 nance or resolution, for said board to exercise such of the func-
7 tions of the municipal authorities in connection with the matter
8 as they deem proper, and may provide for said board to receive
9 such compensation as such authorities may deem proper, all of
10 which authority and compensation shall be specifically provided
11 for by ordinance or resolution. All compensation and expense
12 of such board shall be paid solely from funds provided under
13 the authority of this act. Such board shall have power to estab-
14 lish by-laws, rules and regulations for its own government.

Sec. 22. In the event bonds issued hereunder are not secured
2 by a trust indenture, provided for in Section 15 of this act,
3 there shall be, and there is hereby, created a statutory mortgage
4 lien upon such municipal public works acquired or constructed
5 under the provisions of this act, which shall exist in favor of
6 the holder of said bonds, and each of them, and to and in favor
7 of the holder of the coupons attached to said bonds, and such
8 municipal public works shall remain subject to such statutory
9 mortgage lien until payment in full of the principal and interest
10 of said bonds. Any holder of bonds issued under the provisions

11 of this act, or of any coupons representing interest accrued
12 thereon, may, either at law or in equity, enforce the statutory
13 mortgage lien hereby conferred and may, by proper suit, compel
14 the performance of the duties of the officials of the municipality
15 set forth in this act. If there be default in the payment of the
16 principal of and/or interest upon any of said bonds, any court
17 having jurisdiction in any proper action may appoint a receiver
18 to administer said municipal public works on behalf of the
19 municipality, with power to charge and collect rents or income
20 sufficient to provide for the payment of said bonds and interest
21 thereon and for the payment of the operating expenses and to
22 apply the income, rents or other revenue in conformity with this
23 act and the order providing for the issuance of said bonds.

Sec. 23. No property shall be acquired under this act upon
2 which any lien or other encumbrance exists, unless at the time
3 such property is acquired a sufficient sum of money be deposited
4 in trust to pay and redeem such lien or encumbrance in full.

Sec. 24. Any holder of any such bonds, or any of the coupons
2 attached thereto, and the trustee, if any, except to the extent of
3 the rights herein given, may be restricted by said ordinance or
4 resolution authorizing issuance of the bonds, or by the trust

5 indenture, may either at law or in equity, by suit, action, man-
6 damus, or other proper proceeding, protect and enforce any
7 and all rights granted hereunder or under such ordinance, reso-
8 lution or trust indenture, and may enforce and compel perform-
9 ance of all duties required by this act, or by such ordinances,
10 resolution or trust indenture to be performed by the munici-
11 pality issuing the bonds, or by the board or any officer, including
12 the making and collecting of reasonable and sufficient charges
13 and rates for services rendered by the works. If there be any
14 failure to pay the principal or interest of any of the bonds on
15 the date therein named for such payment, any court having
16 jurisdiction may appoint a receiver to administer the works on
17 behalf of the municipality, and the bond holders and/or trustees,
18 except as so restricted, with power to charge and collect rates
19 sufficient to provide for the payment of the expenses of opera-
20 tion, repair and maintenance, and also to pay any bonds and
21 interest outstanding, and to apply the revenues in conformity
22 with this act, and the said ordinance, resolution and/or trust
23 indenture; *Provided, however,* That rates established in the
24 manner provided by section seventeen of this act shall not be
25 changed, except in the manner therein provided, with the right

26 of appeal to the public service commission of West Virginia.

Sec. 25. The authority herein given shall be in addition to
2 and not in derogation of any power existing in any municipality
3 under any constitutional, statutory or charter provisions which
4 it may now have, or may hereafter acquire or adopt. For all
5 purposes of this act, municipalities shall have jurisdiction for
6 ten miles outside of the corporate limits thereof, except where
7 such zone would overlap with another municipality, in which
8 event the meridian line of the overlapping zone shall be the
9 dividing line of their respective jurisdictions.

Sec. 26. This act shall, without reference to any other statute,
2 be deemed full authority for the construction, acquisition, im-
3 provement, equipment, maintenance, operation and repair of the
4 works herein provided for, and for the issuance and sale of the
5 bonds by this act authorized, and shall be construed as an
6 additional alternative method therefor, and for the financing
7 thereof, and no petition or other or further proceeding in respect
8 to the construction or acquisition or improvement of the works,
9 or to the acquisition or sale of bonds to the improvement of the
10 works, or to the issuance or sale of bonds under this act, and no
11 publication of any resolution, ordinance, notice or proceeding

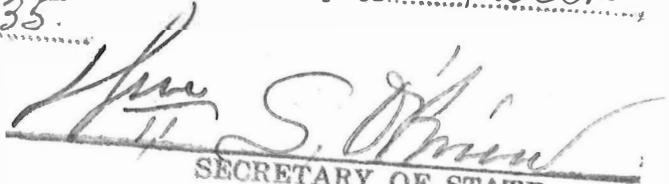
12 relating to such construction, improvement or acquisition, or to
13 the issuance or sale of such bonds shall be required, except such
14 as are prescribed in this act, any provisions of other statutes of
15 the state to the contrary notwithstanding.

Sec. 27. This act being necessary for the public health, safety
2 and welfare, shall be liberally construed to effectuate the pur-
3 poses thereof.

Sec. 28. The sections and provisions of this act are separable,
2 and not matters of mutual essential inducement, and it is the
3 intention to confer the whole or any part of the power herein
4 provided for, and if any section, sections, provision or provisions,
5 or parts thereof, is or are for any reason held to be illegal, it is
6 the intention that the remaining sections and provisions, or parts
7 thereof, shall remain in full force and effect.

I certify that the foregoing act,
having been presented to the Governor for
his approval, and not having been returned
by him to the House of the Legislature in
which it originated within the time pre-
scribed by the constitution of the state, has
become a law without his approval.

This the 15th day of March,
1935.


SECRETARY OF STATE


The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

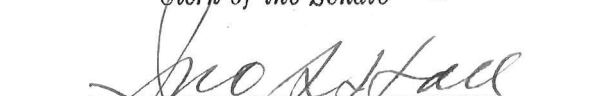

Chairman Senate Committee



Chairman House Committee

Originated in the 

Takes effect  passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates.

The within.....this the.....

day of....., 1935.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAR 15 1935**
Wm. S. O'BRIEN,
Secretary of State