

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

SENATE BILL No. 229

(By Mr. Paull)



PASSED March 10 1937

In Effect 90 days from Passage

122

ENROLLED

Senate Bill No. 229

(BY MR. PAULL) (by request)

[Passed March 10, 1937; in effect ninety days from passage.]

AN ACT to authorize and regulate the issuance of bonds for the purpose of refinancing, or of refinancing and improving, revenue-producing works, undertakings, and projects by cities, towns, counties, the state acting through the West Virginia board of control, the state and agencies thereof having power to issue revenue obligations, and to provide for the payment of such bonds.

Be it enacted by the Legislature of West Virginia:

Section 1. This act may be cited as "The revenue bond refinancing act of one thousand nine hundred thirty-seven."

Sec. 2. The following terms wherever used or referred to in this act shall have the following meaning, unless a different meaning plainly appears from the context:

The term "public body" shall mean any city, town, or county, the state acting through the West Virginia Board of Control, or other agencies thereof having power to issue revenue obligations.

The term "governing body" shall mean board, council or other body having power to borrow money on behalf of a public body.

The term "law" shall mean any act or statute, general, special or local, of this state, including, without being limited to, the charter of any public body.

The term "enterprise" shall mean any work, undertaking, or project which the public body is or may hereafter be authorized to construct and from which the public body has heretofore derived or may hereafter derive revenues, for the refinancing, or the refinancing and improving of which enterprise, refunding bonds are issued under this act, and such enterprise shall include all improvements, betterments, extensions and replacements thereto, and all appurtenances,

22 facilities, lands, rights in land, water rights, franchises, and
23 structures in connection therewith or incidental thereto.

24 The term "federal agency" shall include the United States
25 of America, the president of the United States of America,
26 the federal emergency administrator of public works, recon-
27 struction finance corporation, or any agency, instrumentality
28 or corporation of the United States of America, which has
29 heretofore been or may hereafter be designated or created
30 by or pursuant to any act or acts or joint resolution or
31 joint resolutions of the congress of the United States of
32 America, or which may be owned or controlled, directly or
33 indirectly, by the United States of America.

34 The term "improving" shall mean reconstructing, replac-
35 ing, extending, repairing, bettering, equipping, developing,
36 embellishing or improving; or any one or more, or all of
37 the foregoing.

38 The term "refunding bonds" shall mean notes, bonds,
39 certificates or other obligations of a public body issued pur-
40 suant to this act, or pursuant to any other law, as supple-
41 mented by, or in conjunction with this act.

42 The term "refinancing" shall mean funding, refunding,
43 paying or discharging, by means of refunding bonds or the
44 proceeds received from the sale thereof, all or any part of
45 any notes, bonds, or other obligations heretofore or here-
46 after issued to finance or to aid in financing the acquisition,
47 construction or improving of an enterprise and payable
48 solely from all or any part of the revenues thereof, includ-
49 ing interest thereon in arrears or about to become due,
50 whether or not represented by coupons or interest certifi-
51 cates.

52 The term "revenues" shall mean all fees, tolls, rates,
53 rentals and charges to be levied and collected in connection
54 with and all other income and receipts of whatever kind
55 or character derived by the public body from the operation
56 of any enterprise or arising from any enterprise.

57 The term "holder of bonds" or "bondholder" or any
58 similar term shall mean any person who shall be the bearer
59 of any outstanding refunding bond or refunding bonds
60 registered to bearer or not registered, or the registered
61 owner of any such outstanding bond or bonds which shall
62 at the time be registered other than to bearer.

63 Words importing the singular number shall include the
64 plural number in each case and vice versa, and words im-
65 porting persons shall include firms and corporations.

Sec. 3. Any public body shall have power and is hereby
2 authorized to refinance, or to refinance and improve, any
3 enterprise, and for such purpose or purposes to borrow money
4 and issue refunding bonds from time to time.

Sec. 4. The refunding bonds shall be authorized by reso-
2 lution or resolutions of the governing body of the public
3 body. Such resolution or resolutions may be adopted at a
4 regular or special meeting, and at the same meeting at
5 which they are introduced, by a majority of all the members
6 of the governing body then in office. Such resolution or
7 resolutions shall take effect immediately upon the adoption
8 thereof. No other proceedings or procedure of any character
9 whatever shall be required for the issuance of refunding
10 bonds by the public body.

Sec. 5. The refunding bonds may be issued in one or more
2 series, may bear such date or dates, may mature at such
3 time or times not exceeding the period of usefulness of the
4 enterprise, as determined by the governing body in its dis-

5 cation, not in any event exceeding forty years from their
6 respective dates; may bear interest at such rate or rates
7 not exceeding the maximum rate of interest borne by the
8 notes, bonds, or other obligations refinanced thereby; may
9 be in such denomination or denominations, may be in such
10 form either coupon or registered, may carry such registration
11 and conversion privileges, may be executed in such manner,
12 may be payable in such medium of payment, at such place
13 or places, may be subject to such terms of redemption, with
14 or without a premium, may be declared or become due
15 before the maturity date thereof, may provide for the re-
16 placement of mutilated, destroyed, stolen, or lost bonds, may
17 be authenticated in such manner and upon compliance with
18 such conditions; and may contain such other terms and
19 covenants, as may be provided by resolution or resolutions
20 of the governing body of the public body. Notwithstanding
21 the form or tenor thereof, and in the absence of an express
22 recital on the face thereof that the bond is non-negotiable,
23 all refunding bonds shall at all times be, and shall be
24 treated as, negotiable instruments for all purposes.

Sec. 6. Refunding bonds bearing the signatures of officers
2 of the public body in office on the date of the signing thereof
3 shall be valid and binding obligations of the public body
4 for all purposes, notwithstanding that before the delivery
5 thereof any or all of the persons whose signatures appear
6 thereon shall have ceased to be officers of the public body,
7 the same as if such persons had continued to be officers
8 of the public body until after the delivery thereof. The
9 validity of the authorization and issuance of the refunding
10 bonds shall not be dependent on or affected in any way
11 by proceedings taken for the improving of any enterprise,
12 for the refinancing and improving of which the refund-
13 ing bonds are to be issued, or by contracts made in con-
14 nection with the improving of any such enterprise. Any
15 resolution authorizing refunding bonds may provide that any
16 such refunding bond may contain a recital that such re-
17 funding bond is issued pursuant to this act, and any re-
18 funding bond containing such recital under authority of any
19 such resolution shall be conclusively deemed to be valid and
20 to have been issued in conformity with the provisions of
21 this act.

Sec. 7. The refunding bonds may be sold or exchanged
2 in installments at different times, or an entire issue or series
3 may be sold or exchanged at one time. Any issue or series
4 of refunding bonds may be exchanged in part or sold in
5 part in installments at different times or at one time. The
6 refunding bonds may be sold or exchanged at any time on,
7 before, or after the maturity of any of the outstanding
8 notes, bonds, certificates or other obligations to be refinanced
9 thereby.

10 If the governing body determines to exchange any refund-
11 ing bonds, such refunding bonds may be exchanged privately
12 for and in payment and discharge of any of the outstand-
13 ing notes, bonds or other obligations of the public body
14 issued to finance or to aid in financing the acquisition, the
15 construction, the improving, the refinancing, or the improv-
16 ing and refinancing, of an enterprise. The refunding bonds
17 may be exchanged for a like or greater principal amount
18 of such notes, bonds or other obligations of the public body,
19 except that the principal amount of the refunding bonds
20 may exceed the principal amount of such outstanding notes,
21 bonds, or other obligations to the extent necessary or advis-

22 able, in the discretion of the governing body, to fund interest
23 in arrears or about to become due. The holder or holders
24 of such outstanding notes, bonds, or other obligations need
25 not pay accrued interest on the refunding bonds to be de-
26 livered in exchange therefor if, and to the extent that,
27 interest is due or accrued and unpaid on such outstanding
28 notes, bonds, or other obligations to be surrendered.

29 If the governing body determines to sell any refunding
30 bonds, such refunding bonds shall be sold at not less than
31 par at public or private sale in such manner and upon such
32 terms as the governing body shall deem best for the interests
33 of the public body.

Sec. 8. The refunding bonds shall be special obligations
2 of the public body and shall be payable from and secured
3 by a lien upon the revenues of the enterprise, as shall be
4 more fully described in the resolution or resolutions of the
5 governing body authorizing the issuance of the refunding
6 bonds, having due regard to the cost of operation and main-
7 tenance of the enterprise and the amount or proportion, if
8 any, of the revenues of the enterprise previously pledged.

9 and any public body shall have power by resolution of its
10 governing body to pledge for the security of the refunding
11 bonds a fixed amount without regard to any fixed propor-
12 tion of the gross revenues of the enterprise.

13 As additional security for any issue of refunding bonds
14 hereunder, or any part thereof, any public body shall have
15 power, and is hereby authorized to, by resolution of its
16 governing body, confer upon the holders of the refunding
17 bonds all rights, powers and remedies which said holders
18 would be entitled to if they were the owners and had
19 possession of the notes, bonds or other obligations for the
20 refinancing of which such refunding bonds shall have been
21 issued, including, but not limited to, the preservation of the
22 lien of such notes, bonds or other obligations without ex-
23 tinguishment, impairment or diminution thereof. In the
24 event any public body exercises the power conferred by this
25 paragraph, each refunding bond shall contain a recital to
26 the effect that the holder thereof has been granted the addi-
27 tional security provided by this paragraph and each note,
28 bond, certificate or other obligation of the public body to
29 be refinanced by any such refunding bonds, shall be kept

30 intact and shall not be canceled or destroyed until the re-
31 funding bonds, and interest thereon, have been finally paid
32 and discharged, but shall be stamped with a legend to the
33 effect that such note, bond, certificate or other obligation
34 has been refunded pursuant to the revenue bond refinancing
35 act of one thousand nine hundred thirty-seven.

36 All refunding bonds of the same issue shall be equally
37 and ratably secured, without priority by reason of number,
38 date of bonds, of sale, of execution or of delivery, by a
39 lien upon the revenues of the enterprise in accordance with
40 the provisions of this section and the resolution or resolu-
41 tions authorizing the issuance of such refunding bonds.

42 Nothing in this section or in any other section of this
43 act shall be deemed in any way to alter the terms of any
44 agreements made with the holders of any outstanding notes,
45 bonds, or other obligations of the public body, or to authorize
46 the public body to alter the terms of any such agreements,
47 or to impair, or to authorize the public body to impair,
48 the rights and remedies of any creditors of the public body.

49 Nothing in this section or in any other section of this
50 act shall be deemed in any way to authorize any public

51 body to do anything in any manner or for any purpose
52 which would result in the creation or incurring of a debt
53 or indebtedness or the issuance of any instrument which
54 would constitute a bond or debt within the meaning of
55 any provision, limitation, or restriction of the constitution
56 relating to the creation or incurring of a debt or indebted-
57 ness or the issuance of an instrument constituting a bond
58 or a debt.

Sec. 9. No recourse shall be had for the payment of the
2 refunding bonds, or interest thereon, or any part thereof,
3 against the general fund of any public body, nor shall the
4 credit or taxing power of any public body be deemed to be
5 pledged thereto.

6 The refunding bonds, and interest thereon, shall not be
7 a debt of the public body, nor a charge, lien or encumbrance,
8 legal or equitable, upon any property of the public body,
9 nor upon any income, receipts, or revenues of the public
10 body other than such of the revenues of the enterprise as
11 shall have been pledged to the payment thereof, and every
12 refunding bond shall recite in substance that said bond, in-
13 cluding interest thereon, is payable solely from the revenues

14 pledged to the payment thereof and that the public body
15 is under no obligation to pay the same, except from said
16 revenues.

Sec. 10. The refunding bonds and the income therefrom
2 shall be exempt from taxation, except inheritance, estate and
3 transfer taxes.

Sec. 11. Any public body shall have power, in connection
2 with the issuance of refunding bonds, to appoint a fiscal
3 agent, to provide for the powers, duties and functions and
4 compensations of such fiscal agent, to limit the liabilities of
5 such fiscal agent, to prescribe a method for the resignation,
6 removal, merger or consolidation of such fiscal agent and
7 the appointment of a successor fiscal agent and the transfer
8 of rights and properties to such successor fiscal agent.

Sec. 12. In order that the payment of the refunding
2 bonds, and interest thereon, shall be adequately secured,
3 any public body issuing refunding bonds pursuant to this
4 act and the proper officers, agents and employees thereof,
5 are hereby directed, and it shall be the mandatory duty of
6 such public body and such officers, agents and employees

7 under this act, and it shall further be of the essence of the
8 contract of such public body with the bondholders, at all
9 times :

10 To pay or cause to be paid punctually the principal of
11 every refunding bond, and the interest thereon, on the
12 date or dates and at the place or places and in the manner
13 and out of the funds mentioned in such refunding bonds
14 and in the coupons thereto appertaining and in accord-
15 ance with the resolution authorizing their issuance ;

16 To operate the enterprise in an efficient and economical
17 manner and to establish, levy, maintain and collect such
18 fees, tolls, rentals, rates and other charges in connection
19 therewith as may be necessary or proper, which said fees,
20 tolls, rates, rentals and other charges shall be at least suf-
21 ficient, after making due and reasonable allowances for con-
22 tingencies and for a margin of error in the estimates, to
23 pay all current expenses of operation, and maintenance of
24 such enterprise ; to pay the interest on and principal of the
25 refunding bonds as the same shall become due and pay-
26 able ; to comply in all respects with the terms of the resolu-
27 tion or resolutions authorizing the issuance of refunding

28 bonds or any other contract or agreement with the holders
29 of the refunding bonds; and to meet any other obligations
30 of the public body which are charges, liens, or encumbrances
31 upon the revenues of such enterprise;

32 To operate, maintain, preserve and keep, or cause to be
33 operated, maintained, preserved and kept, the enterprise
34 and every part and parcel thereof, in good repair, work-
35 ing order and condition;

36 To preserve and protect the security of the refunding
37 bonds and the rights of the holders thereof, and to war-
38 rant and defend such rights against all claims and demands
39 of all persons whomsoever;

40 To pay and discharge, or cause to be paid or discharged,
41 any and all lawful claims for labor, materials and supplies,
42 which, if unpaid, might by law become a lien or charge
43 upon the revenues or any part thereof, prior or superior
44 to the lien of the refunding bonds, or which might impair
45 the security of the refunding bonds, to the end that the
46 priority and security of the refunding bonds shall be fully
47 preserved and protected;

48 To hold in trust the revenues pledged to the payment of
49 the refunding bonds for the benefit of the holders of the
50 refunding bonds and to apply such revenues only as pro-
51 vided by the resolution or resolutions authorizing the
52 issuance of the refunding bonds, or, if such resolution or
53 resolutions shall thereafter be modified in the manner pro-
54 vided therein or herein, only as provided in such resolution
55 or resolutions as modified;

56 To keep proper books of record and accounts of the
57 enterprise (separate from all other records and accounts)
58 in which complete and correct entries shall be made of all
59 transactions relating to the enterprise or any part thereof,
60 and which, together with all other books and papers of the
61 public body, shall at all times be subject to the inspection
62 of the holder or holders of not less than ten per cent of the
63 refunding bonds then outstanding, or his or their repre-
64 sentatives duly authorized in writing.

65 None of the foregoing duties shall be construed to re-
66 quire the expenditure in any manner or for any purpose
67 by the public body of any funds other than revenues re-
68 ceived or receivable from the enterprise.

Sec. 13. The governing body of any public body shall
have power, in addition to the other powers conferred by
this act, to insert provisions in any resolution authorizing
the issuance of refunding bonds, which shall be a part of
the contract with the holders of the refunding bonds, as to:

Limitations on the purpose to which the proceeds of sale
of any issue of refunding bonds, or any notes, bonds or
other obligations then or thereafter to be issued to finance
the improving of the enterprise, may be applied;

Limitations on the issuance and on the lien of additional
refunding bonds, or additional notes, bonds or other obligations to finance the improving of the enterprise which are
secured by or payable from the revenues of such enterprise;

Limitations on the right of the public body or its governing body to restrict and regulate the use of the enterprise;

The amount and kind of insurance to be maintained on
the enterprise, and the use and disposition of insurance
moneys;

Pledging all or any part of the revenues of the enter-

21 prise to which its rights then exists or the right to which
22 may thereafter come into existence;

23 Covenantee against pledging all or any part of the
24 revenues of the enterprise to which its right then exists
25 or the right to which may thereafter come into existence;

26 Events of default and terms and conditions upon which
27 any or all of the refunding bonds shall become or may
28 be declared due before maturity, and as to the terms and
29 conditions upon which such declaration and its conse-
30 quences may be waived;

31 The rights, liabilities, powers and duties arising upon
32 the breach by it of any covenants, conditions or obligations;

33 The vesting in a trustee or trustees the right to enforce
34 any covenants made to secure, to pay, or in relation to the
35 refunding bonds, as to the powers and duties of such trustee
36 or trustees, and the limitation of liabilities thereof, and as
37 to the terms and conditions upon which the holders of the
38 refunding bonds or any proportion or percentage of them
39 may enforce any covenants made under this act or duties
40 imposed hereby;

41 A procedure by which the terms of any resolution author-
42 izing refunding bonds, or any other contract with bond-
43 holders, including but not limited to an indenture of trust
44 or similar instrument, may be amended or abrogated, and
45 as to the amount of refunding bonds the holders of which
46 must consent thereto, and the manner in which such con-
47 sent may be given;

48 The execution of all instruments necessary or convenient
49 in the exercise of the powers granted by this act or in
50 the performance of the duties of the public body and the
51 officers, agents and employees thereof;

52 Refraining from pledging or in any manner whatever
53 claiming or taking the benefit or advantage of any stay or
54 extension law whenever enacted, or at any time here-
55 after in force, which may affect the duties or covenants
56 of the public body in relation to the refunding bonds, or the
57 performance thereof, or the lien of such refunding
58 bonds;

59 The purchase out of any funds available therefor, in-
60 cluding, but not limited to, the proceeds of refunding bonds,
61 of any outstanding notes, bonds or obligations, including,

62 but not limited to, refunding bonds, and the price or prices
63 at which, and the manner in which, such purchases may be
64 made;

65 Any other acts and things as may be necessary or con-
66 venient or desirable in order to secure the refunding bonds,
67 or as may tend to make the refunding bonds more market-
68 able;

69 The manner of collecting the fees, tolls, rates, rentals
70 or other charges for the services, facilities or commodities
71 of the enterprise, and the combining in one bill of the
72 fees, tolls, rates, rentals or other charges for the services,
73 facilities or commodities of the enterprise with the fees,
74 tolls, rates, rentals or charges for other services, facilities
75 or commodities afforded by the public body; and

76 The discontinuance of the services, facilities or commodi-
77 ties of the enterprise as well as any other services, facilities
78 or commodities afforded by the public body, in the event
79 that the fees, tolls, rates, rentals or other charges for the
80 services, facilities or commodities of the enterprise are not
81 paid.

82 Nothing in this section shall be construed to authorize
83 any public body to make any covenants, to perform any
84 act or to do anything which shall require the expenditure
85 in any manner or for any purposes by the public body of
86 any funds other than revenues received or receivable from
87 the enterprise.

Sec. 14. In the event that the public body shall default
2 in the payment of the principal or interest on any of the
3 refunding bonds after the same shall become due, whether
4 at maturity or upon call for redemption, and such default
5 shall continue for a period of thirty days, or in the event
6 that the public body or the governing body or officers,
7 agents or employees thereof shall fail or refuse to comply
8 with the provisions of this act, or shall default in any
9 agreement made with the holders of the refunding bonds,
10 any holder or holders of refunding bonds, or trustee there-
11 for, shall have the right to apply in an appropriate judicial
12 proceeding to the circuit court, or any court of competent
13 jurisdiction, for the appointment of a receiver of the enter-
14 prise, whether or not all refunding bonds have been de-
15 clared due and payable and whether or not such holder,

16 or trustee therefor, is seeking or has sought to en-
17 force any other right, or exercise any remedy in connection
18 with such refunding bonds. Upon such application the
19 circuit court may appoint, and if the application is made
20 by the holders of twenty-five percentum in principal amount
21 of such refunding bonds then outstanding, or any trustee
22 for holders of such refunding bonds in such principal
23 amount, shall appoint a receiver of the enterprise.

24 The receiver so appointed shall forthwith, directly or by
25 his agents and attorneys, enter into and upon and take
26 possession of the enterprise and each and every part there-
27 of, and may exclude the public body, its governing body,
28 officers, agents, and employees and all persons claiming un-
29 der them, wholly therefrom and shall have, hold, use,
30 operate, manage and control the same and each and every
31 part thereof, and, in the name of the public body or other-
32 wise, as the receiver shall deem best, shall exercise all the
33 rights and powers of the public body with respect to the
34 enterprise as the public body itself might do. Such receiver
35 shall maintain, restore, insure and keep insured, the enter-
36 prise, and from time to time shall make all such necessary

37 or proper repairs which to such receiver shall seem expedi-
38 ent, and shall establish, levy, maintain and collect such
39 fees, tolls, rentals, and other charges in connection with the
40 enterprise as such receiver shall deem necessary or proper
41 and reasonable, and shall collect and receive all revenues
42 and shall deposit the same in a separate account and apply
43 such revenues so collected and received in such manner as
44 the court shall direct.

45 Whenever all that is due upon the refunding bonds, and
46 interest thereon, and upon any other notes, bonds or other
47 obligations, and interest thereon, having a charge, lien, or
48 encumbrance on the revenues of the enterprise and under
49 any of the terms of any covenants or agreements with bond-
50 holders shall have been paid or deposited as provided there-
51 in, and all defaults shall have been cured and made good,
52 the court may, in its discretion, and after such notice and
53 hearing as it deems reasonable and proper, direct the re-
54 ceiver to surrender possession of the enterprise to the
55 public body, but the same right of the holders of the re-
56 funding bonds to secure the appointment of a receiver shall

57 exist upon any subsequent default, as hereinabove pro-
58 vided.

59 Such receiver shall, in the performance of the powers
60 hereinabove conferred upon him, act under the direction and
61 supervision of the court making such appointment, and
62 shall at all times be subject to the orders and decrees of
63 such court and may be removed thereby. Nothing herein
64 contained shall limit or restrict the jurisdiction of such
65 court to enter such other and further orders and decrees
66 as such court may deem necessary or appropriate for the
67 exercise by the receiver of any functions specifically set
68 forth herein.

69 Notwithstanding anything in this section to the contrary,
70 said receiver shall have no power to sell, assign, mortgage
71 or otherwise dispose of any assets of whatever kind or char-
72 acter belonging to the municipality and useful for the enter-
73 prise, but the authority of any such receiver shall be limited
74 to the operation and maintenance of the enterprise and no
75 court shall have jurisdiction to enter any order or decree
76 requiring or permitting said receiver to sell, mortgage, or
77 otherwise dispose of any such assets.

Sec. 15. Subject to any contractual limitations binding
2 upon the holders of any issue of refunding bonds, or the
3 trustee therefor, including, but not limited to, the restric-
4 tion of the exercise of any remedy to a specified proportion
5 or percentage of such holders, any holder of refunding
6 bonds, or trustee therefor, shall have the right and power,
7 for the equal benefit and protection of all holders of re-
8 funding bonds similarly situated:

9 By mandamus or other suit, action or proceeding at law
10 or in equity to enforce his rights against the public body
11 and its governing body and any of its officers, agents and
12 employees, and to require and compel such public body
13 or such governing body or any such officers, agents or em-
14 ployees to perform and carry out its and their duties and
15 obligations under this act and its and their covenants and
16 agreements with bondholders;

17 By action or suit in equity to require the public body
18 and the governing body thereof to account as if they were
19 the trustee of an express trust;

20 By action or suit in equity to enjoin any acts or things

21 which may be unlawful or in violation of the rights of the
22 bondholders;

23 To bring suit upon the refunding bonds.

24 No remedy conferred by this act upon any holder of
25 refunding bonds, or any trustee therefor, is intended to be
26 exclusive of any other remedy, but each such remedy is
27 cumulative and in addition to every other remedy and
28 may be exercised without exhausting and without regard
29 to any other remedy conferred by this act or by any other
30 law. No waiver of any default or breach of duty or con-
31 tract, whether by any holder of refunding bonds, or any
32 trustee therefor, shall extend to or shall affect any subse-
33 quent default or breach of duty or contract or shall impair
34 any rights or remedies thereon. No delay or omission of
35 any bondholder or any trustee therefor, to exercise any
36 right or power accruing upon any default, shall impair any
37 such right or power, nor shall be construed to be a waiver
38 of any such default or acquiescence therein. Every sub-
39 stantive right and every remedy, conferred upon the holders
40 of refunding bonds, may be enforced and exercised from
41 time to time and as often as may be deemed expedient. In

42 case any suit, action or proceeding to enforce any right or
43 exercise any remedy shall be brought or taken and then
44 discontinued or abandoned, or shall be determined adversely
45 to the holder of the refunding bonds, or any trustee there-
46 for, then and in every such case the public body and such
47 holder, or such trustee, shall be restored to their former
48 positions and rights and remedies as if no such suit, action
49 or proceeding had been brought or taken.

Sec. 16. This act constitutes full and complete authority
2 for the issuance of refunding bonds. No procedure or pro-
3 ceedings, publications, notices, consents, approvals, orders,
4 acts or things by any governing body of any public body,
5 or any board, officer, commission, department, agency, or
6 instrumentality of the state or any public body shall be
7 required to issue any refunding bonds or to do any act
8 or perform any thing under this act, except as may be
9 prescribed in this act. The powers conferred by this act
10 shall be in addition and supplemental to, and not in sub-
11 stitution for, and the limitations imposed by this act shall
12 not affect, the powers conferred by any other law. This
13 act is remedial in nature and shall be liberally construed.

Sec. 17. If any section, clause, sentence, paragraph, part
or provision of this act shall be found invalid by any court,
it shall be conclusively presumed that this act would have
been passed by the legislature without such invalid section,
clause, sentence, paragraph, part or provision, and the
act as a whole shall not be declared invalid by reason of the
fact that one or more sections, clauses, sentences, para-
graphs, parts or provisions may be found invalid by any
court.

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

Carl B. Culbreath

Chairman Senate Committee

Wesley D. Baker

Chairman House Committee

Originated in the.....

Takes effect.....passage.

Charles H. Smith

Clerk of the Senate

Wm. S. Hall

Clerk of the House of Delegates

Chas. E. Hodge

President of the Senate

J. K. Thomas

Speaker House of Delegates

The within *Approved* this the *19th*

day of *March*, 1937.

James A. Johnston

Governor

Filed in the office of the Secretary of State
of West Virginia **MAR 19 1937**

Wm. S. O'BRIEN,
Secretary of State