WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED
Comm. Sub. for
SENATE BILL No. 120

(By Mr._______________________________)

PASSED__________________________ 1939

In Effect__________________________ Passage

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.
AN ACT relating to municipal water and sewer systems; providing means of consolidating the same, and, in connection therewith, the refunding of securities previously issued for any existing waterworks or sewerage system, or both, by municipalities.

Be it enacted by the Legislature of West Virginia:

Section 1. Definitions. When used in this act the term "waterworks" means and includes a waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus, and all
other elements useful in connection with a water supply.

The term "sewerage system" means and includes any or all of the following: A sewerage treatment plant or plants, collecting, intercepting and outlet sewers, lateral sewers, and drains, force mains, conduits, pumping stations, ejector stations and all other appurtenances, extensions and improvements necessary, useful or convenient for the collection, treatment and disposal in a sanitary manner of sewage and industrial wastes.

The term "combined waterworks and sewerage system" means and includes a waterworks and sewerage system, which the municipality determines by ordinance to operate in combination.

The term "municipality" means and includes any city or incorporated town organized under any laws of the state of West Virginia.

The term "governing body" means and includes the mayor and city council of any such city and the president and board of trustees of any such incorporated town.

Sec. 2. Authority to Maintain or Operate Combined Waterworks and Sewerage System; Powers Generally. Any munici-
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3 pality owning and operating a waterworks and sewerage system may provide for the inclusion of such waterworks and sewerage system in a combined waterworks and sewerage system under this act, and in connection therewith may provide for paying or refunding any unpaid and outstanding obligations against either the waterworks or sewerage system, or both, which are payable solely from the revenues of any such waterworks or sewerage system, or any part or parts thereof included or combined in such combined waterworks and sewerage system. Any municipality owning such a combined waterworks and sewerage system may impose and collect charges or rates for the use of such system as provided in this act.

Sec. 3. Refund of Outstanding Obligations or Securities; Exchange of Bonds. Whenever a waterworks and sewerage system is included in a combined waterworks and sewerage system under this act and there are unpaid and outstanding water revenue bonds, water certificates, sewerage revenue bonds or any other obligations or securities previously issued which are payable solely from the revenues of such waterworks or such sewerage system or any part thereof, such
outstanding obligations or securities may be refunded by the
issue and exchange therefor of revenue bonds to be issued
under this act with the consent of all of the respective
holders of such outstanding obligations or securities. Such
bonds may be sold in installments at different times, or an
entire issue or series may be sold at one time. Such bonds
shall bear interest at a rate not to exceed six per cent per
annum payable semi-annually and shall mature within the
period of usefulness of the project involved, to be determined
by the governing body and in any event not more than forty
years. Such bonds may be in such denomination or de-
nominations, may be in such form, either coupon or register-
ed, may carry such registration and conversion privileges,
may be executed in such manner, may be payable in such
medium of payment, at such place or places, may be subject
to such terms of redemption, with or without a premium,
may be declared or become due before the maturity date
thereof, may provide for the replacement of mutilated, de-
stroyed, stolen, or lost bonds, may be authenticated in such
manner and upon compliance with such conditions, and
may contain such other terms and covenants, as may be
provided by ordinance of the governing body of the municipality. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is non-negotiable, all such bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes. Such bonds shall be sold in such manner as the governing body shall determine and if issued to bear interest at the rate of six per cent per annum shall be sold for not less than par and accrued interest. If any such bonds shall be issued to bear interest at a rate of less than six per cent per annum, the minimum price at which they may be sold shall be such that the interest cost to such municipality of the proceeds of such bonds shall not exceed six per cent per annum computed to maturity according to the standard table of bond values. In case any officer whose signature appears on such bonds or coupons attached thereto shall cease to be such officer before the delivery of the bonds to the purchaser, such signature shall nevertheless be valid and sufficient for all purposes, with the same effect as if he had remained in office until the delivery of the bonds. Such bonds shall have all the qualities of negotiable instruments
under the law of this state. Whenever any outstanding obligations or securities previously issued which are payable solely from the revenues of any waterworks or sewerage system included in a combined waterworks and sewerage system under this act are refunded, such outstanding obligations or securities shall be surrendered and exchanged for revenue bonds of such combined waterworks and sewerage system of a total principal amount which shall not be more and may be less than the principal amount of the obligations or securities exchanged and interest thereon to the date of exchange. Provision may be made that each bond to be exchanged for refunding bonds, shall be kept intact and shall not be cancelled or destroyed until the refunding bonds, and interest thereon, have been finally paid and discharged but shall be stamped with a legend to the effect that such bond has been refunded pursuant to this act.

Sec. 4. Ordinance; Contents. The governing body of any municipality availing itself of the provisions of this act, shall adopt an ordinance describing in a general way the contemplated project. If it is intended to include in the combined
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waterworks and sewerage system any existing waterworks or
any existing sewerage system, such ordinance shall determine
that it be so included in such combined system and shall de-
scribe in a general way such existing waterworks or sewerage
system to be included in the combined waterworks and sewer-
age system. Such ordinance shall state the means provided for
refunding any obligation unpaid and outstanding payable
solely from the revenue of any such waterworks or sewerage
system. Such ordinance shall determine the period of useful-
ness of the contemplated project. Such ordinance shall fix
the amount of revenue bonds proposed to be issued, the interest
rate and any other details in connection with such bonds
deemed advisable.

Sec. 5. Publication of Ordinance; Posting; Petition for
Referendum; Election. After the ordinance for any project
under this act, has been adopted and approved, it shall be pub-
lished once in a newspaper published and having a general cir-
culation in the municipality undertaking such project, or if
there be no such newspaper, then by posting such ordinance in
at least three of the most public places in such municipality.
If no petition is filed with the clerk of the governing body as
hereinafter provided, within ten days after the publication or posting of such ordinance, then after the expiration of such ten day period such ordinance shall be in full force and effect, but if within such period of ten days a petition is filed with the clerk of such municipality signed by fifteen per cent of the number of voters voting for the presiding officer of the governing body at the last preceding general municipal election, asking that the question of combining such waterworks and sewerage systems as provided in such ordinance and the issuance of revenue bonds for refunding such obligations be submitted to the legal voters of the municipality, the governing body of such municipality shall call a special election in the manner provided by law to vote upon such question. If it appears upon the canvass of the election by the governing body that a majority of the voters voting upon such question at such election voted in favor of combining such waterworks and sewerage systems and the issuance of such revenue bonds, then such ordinance shall be in full force and effect, but if a majority of the votes cast are against the combining of such waterworks and sewerage systems and the issuance of such
29 revenue bonds, then such municipality shall proceed no further
30 under such ordinance.

Sec. 6. Bonds Payable Solely From Revenue; Limitation
2 of Municipal Indebtedness Inapplicable. Revenue bonds issued
3 under the provisions of this act shall be payable solely from
4 the revenues derived from the operation of the combined
5 waterworks and sewerage system on account of which such
6 bonds are issued, and such bonds shall not in any event con-
7 stitute an indebtedness of the municipality within the meaning
8 of any constitutional or statutory limitation and it shall be so
9 stated on the face of each bond.

Sec. 7. Powers of Municipality; Regulations; Rates and
2 Charges; Lien; Recovery. The governing body of any munici-
3 pality availing itself of this act, shall have power to make,
4 enact and enforce all needful rules and regulations for the
5 management and maintenance of the combined waterworks
6 and sewerage system of such municipality and for the use
7 thereof, and shall also have power to make, enact and enforce
8 all needful rules and regulations and ordinances for the care
9 and protection of any such system, which may be conducive
10 to the preservation of the public health, comfort and conveni-
ence and to rendering the water supply of such municipality pure and the sewerage harmless in so far as it is reasonably possible so to do, and any such municipality shall have power and it is hereby authorized to charge the inhabitants thereof during the period that said bonds are outstanding a reason-
able compensation for the use and service of such combined waterworks and sewerages system and to establish charges or rates for such purpose, subject to the approval of the public service commission. Separate rates may be fixed for the water and sewer services respectively or single rates for the combined water and sewer services. Such charges or rates, whether separate or combined, shall be sufficient at all times to pay the cost of operation and maintenance of the combined water-
works and sewerage system, provide an adequate reserve fund, an adequate depreciation fund and pay the principal of and interest upon all revenue bonds issued under this act. Charges or rates shall be established, revised and maintained by ordi-
nance and become payable as the governing body may deter-
mine by ordinance, and such rates may be changed from time to time as needful, consistently with the provisions of this
act, and the rules and regulations, and the approval of the
public service commission.

Sec. 8. Lien of Bonds; Enforcement; Receivership. There
shall be and there is hereby created a statutory mortgage lien
upon such combined waterworks and sewerage system which
shall exist in favor of the holder of bonds hereby authorized
to be issued, and each of them, and to and in favor of the
holder of the coupons attached to said bonds, and such com-
bined waterworks and sewerage system shall remain subject to
such statutory mortgage lien until payment in full of the
principal and interest of said bonds. Any holder of bonds
issued under the provisions thereof, or of any coupons repre-
senting interest accrued thereon, may, either at law or in equi-
ity enforce the statutory mortgage lien hereby conferred, and
may, by proper suit, compel the performance of the duties of
the officials of the issuing municipality set forth herein. If
there be default in the payment of the principal of and/or in-
terest upon any of said bonds, any court having jurisdiction
in any proper action may appoint a receiver to administer said
combined waterworks and sewerage system on behalf of the
municipality with power to charge and collect rates sufficient
to provide for the payment of said bonds and interest thereon,
and for the payment of the operating expenses and to apply
the income and revenues in conformity herewith and the ordi-
nance providing for the issuance of such bonds subject to
the approval of the public service commission.

Sec. 9. Deposit of Revenues in Special Fund. All revenues
derived from the operation of any combined waterworks and
sewerage system under this act shall be set aside as collected
and deposited in a special fund of the municipality and used
only for the purpose of paying the cost of operating and
maintaining such system, providing an adequate reserve
fund, an adequate depreciation fund, and paying the prin-
cipal of and interest on the revenue bonds issued by the
municipality under the provisions of this act.

Sec. 10. Accounts; Audit. Any municipality operating a
combined waterworks and sewerage system under this act,
shall set up and maintain a proper system of accounts in ac-
cordance with the requirements of the public service com-
mission showing the amount of revenue received from such
combined waterworks and sewerage system and the appli-
cation of the same. At least once each year such municipality
shall cause such accounts to be properly audited, and a report of such audit shall be open to the public for inspection at all reasonable times.

Sec. 11. Submission to Referendum Not Required. This act shall be construed as authorizing the issuance of revenue bonds provided for herein without submitting the proposition of approval of the same to the voters, as required in the case of the issuance of bonds payable out of taxes, levied for the payment of the same, except as herein provided.

Sec. 12. Provisions of Act Cumulative. The provisions of this act shall be cumulative and shall be considered as conferring separate and additional power on the municipalities of this state, and as an addition to and not a limitation on the power of any such municipality to construct or acquire or improve and extend waterworks and sewerage systems, impose and collect charges or rates, and issue bonds therefor under the laws now existing or that may hereafter be enacted.

Sec. 13. Partial Invalidity. The invalidity of any portion of this act shall not affect the validity of the remainder of this act.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. D. Wiseman
Chairman Senate Committee

Nell W. Walker
Chairman House Committee

Originated in the

Takes effect

passage

Clerk of the Senate

Clerk of the House of Delegates

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 prescribed by the Constitution of the State, has become a law without his approval.

This the.../2... day of... March... 1939.

Governor

Secretary of State