

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949



ENROLLED

HOUSE BILL No. 351

(By Mr. Kneght)



PASSED March 12, 1949

In Effect From Passage



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AN ACT to amend chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated two-a, relating to self-liquidating revenue bond issues by county courts, municipal corporations and county boards of education; to authorize county courts, municipal corporations and county boards of education to establish, construct, acquire, extend, equip, and improve athletic fields, stadiums, field houses, gymnasiums and other types of athletic establishments; and to defray the cost of such establishment, construction, acquisition, extension, equipment, and improvements by issuing revenue bonds, secured by and payable from the revenues from such establishments; and to authorize charges for the use of such establishments.

*Be it enacted by the Legislature of West Virginia:*

That chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended by adding thereto a new article, to be designated article two-a, to read as follows:

Section 1. *Definitions.*—(a) The term “board” as used  
2 in this article shall mean any county court, municipal  
3 corporation or county board of education in the State of  
4 West Virginia; (b) the term “athletic establishment” shall  
5 be construed to mean and include athletic fields of all  
6 types, stadiums, gymnasiums, field houses, and all other  
7 types of athletic establishments capable of producing  
8 revenue, where the cost of such acquisition, construction,  
9 extension, equipment or improvements, together with  
10 reasonable interest thereon, will be returned within a  
11 reasonable period, not exceeding thirty years, by means  
12 of charges, rentals, radio broadcasting franchise fees, and  
13 other tolls, fees and charges other than taxation; and shall  
14 mean and include such athletic establishment in its en-  
15 tirety, and all integral parts thereof.

Sec. 2. *Boards Authorized to Construct Athletic Estab-*  
2 *lishments; Bonds to Pay Costs.*—Every county court,

3 municipal corporation or county board of education in the  
4 state of West Virginia is hereby authorized and empow-  
5 ered to establish, construct, acquire, extend, equip and  
6 own, maintain and operate any of the athletic establish-  
7 ments described in section one of this article, together  
8 with all appurtenances necessary, useful or convenient  
9 for the maintenance and operation of such athletic es-  
10 tablishments, and shall have authority to acquire by gift,  
11 grant, purchase, condemnation or otherwise, all necessary  
12 lands, rights of way and property therefor, and to issue  
13 revenue bonds to pay the costs of such athletic establish-  
14 ments and property. No obligation shall be incurred by  
15 the board in such establishment, construction, acquisition,  
16 extension or improvement, except as is payable solely  
17 from the funds provided under the authority of this  
18 article.

Sec. 2-a. *Joint Establishment and Administration by*  
2 *Two or More Governmental Divisions.*—Any county court,  
3 municipal corporation and board of education, or any  
4 two of them, may jointly establish and conduct such ath-  
5 letic establishment and may exercise all the powers given

6 by this article. In the event of any such establish-  
7 ment and operation, they may provide by agreement  
8 among themselves for all matters connected with such  
9 establishment and operation.

Sec. 3. *Construction, et Cetera, to be Under Control of*  
2 *Board or Committee Appointed by Board.*—The construc-  
3 tion, acquisition, improvement, extension, equipment,  
4 custody, operation and maintenance of any such athletic  
5 establishment, and the collection of revenues therefrom,  
6 shall be under the supervision and control of the county  
7 court, municipal corporation or county board of educa-  
8 tion, or all or any part of such powers, duties and re-  
9 sponsibilities may be placed in a committee appointed  
10 by such board by resolution duly adopted. The term  
11 “board” when hereafter used in this article shall be  
12 construed to mean the county court, municipal corpora-  
13 tion or the county board of education or such duly ap-  
14 pointed committee, as the case may be.

Sec. 4. *Powers of Board.*—The board shall have power  
2 to take all steps and proceedings, and to make and enter  
3 into all contracts or agreements necessary or incidental

4 to the performance of its duties and the execution of its  
5 powers under this article: *Provided*, That any contract  
6 relating to the financing or the acquisition, construction,  
7 extension or improvement of any such works, or any trust  
8 indenture as hereafter provided for, shall be approved  
9 by the county court, municipal corporation or county  
10 board of education.

11 The board may employ engineers, architects, inspectors,  
12 superintendents, managers, collectors, attorneys and such  
13 other employees as in its judgment may be necessary  
14 in the execution of its powers and duties, and may fix  
15 their compensation, all of whom shall do such work as  
16 the board may direct. No contract or agreement with  
17 any contractor or contractors for labor or material ex-  
18 ceeding in amount the sum of one thousand dollars shall  
19 be made without advertising for bidders, which bids shall  
20 be publicly opened and award made to the lowest respon-  
21 sible bidder, with power in the board to reject any and  
22 all bids. After the acquisition, construction, equipment  
23 and completion of the athletic establishment the board  
24 shall operate, manage and control the same, and may

25 order and complete any extensions, and improvements  
26 of and to the athletic establishments that the board may  
27 deem expedient if funds therefor be available, and shall  
28 establish rules and regulations for the use and operation  
29 of the athletic establishment, and do all things necessary  
30 or expedient for the successful operation thereof.

Sec. 5. *Preliminary expenses.*—All necessary prelimin-  
2 ary expenses actually incurred by the board in the mak-  
3 ing of surveys, estimates of costs and of revenues, employ-  
4 ment of engineers or other employees, the giving of no-  
5 tices, taking of options, and all other expenses of what-  
6 soever nature necessary to be paid prior to the issue, sale  
7 and delivery of the revenue bonds herein provided for,  
8 may be paid by the board to be reimbursed and re-paid  
9 out of the proceeds of sale of such revenue bonds in this  
10 article provided for.

Sec. 6. *Resolution for construction, et cetera, of Estab-*  
2 *lishment.*—Before any board shall construct, acquire, im-  
3 prove, extend or equip any athletic establishment under  
4 this article, the board shall adopt a resolution which  
5 shall (a) set forth a brief general description of the

6 athletic establishment, and if the same is to be con-  
7 structed a reference to the preliminary report or plans  
8 and specifications which shall theretofore have been pre-  
9 pared; (b) set forth the estimated cost thereof; (c) order  
10 the construction, acquisition, extension, improvement or  
11 equipment of such establishment; (d) direct that revenue  
12 bonds of the county board of education be issued pur-  
13 suant to this article; in such amount as may be found  
14 necessary to pay the costs of such athletic establishment;  
15 and (e) contain such other provisions as may be neces-  
16 sary or proper in the premises. Before such resolution  
17 shall become effective it shall be published once each  
18 week for two successive weeks in two newspapers of  
19 opposite politics published in the county in which such  
20 board of education is located, or in one newspaper, if  
21 only one political faith is represented by newspapers pub-  
22 lished in such county, or if there be no newspaper so  
23 published, then such resolution shall be posted in at least  
24 three public places therein. Said notice shall specify a  
25 time and place for a public hearing, the time being  
26 not less than ten days after the first publication or post-



27 ing of said notice; at which time and place all parties  
28 and interests may appear before the board, and may  
29 be heard as to whether or not said resolution shall  
30 be put into effect. At such hearing all objections and  
31 suggestions shall be heard and the board shall take such  
32 action as it shall deem proper in the premises; *provided,*  
33 *however,* That if at such hearing a written protest is filed  
34 by thirty per cent or more of the owners of real estate  
35 situate in said county, then the board of education shall  
36 not take further action unless four-fifths of the members  
37 of said board assent thereto; *And provided further,* That  
38 in case written protest is filed purporting to have been  
39 signed by or on behalf of thirty per cent or more of the  
40 owners of real estate in said county, the board shall have  
41 authority to appoint a sub-committee to consist of one  
42 proponent, one opponent and the third to be selected by  
43 these two, to determine whether or not thirty per cent of  
44 the property owners have in fact protested, and said sub-  
45 committee shall report its findings to the board.

Sec. 7. *Eminent Domain.*—Every such board shall have  
2 power to condemn any land or easements, necessary or

3 convenient for the construction of any such athletic  
4 establishment, or extensions, improvements or additions  
5 thereto, and in connection therewith shall have and may  
6 exercise all the rights, powers and privileges of eminent  
7 domain granted to county courts, municipal corporations  
8 or county boards of education under the laws relating  
9 thereto. Title to property shall be taken in the name of  
10 the county court, municipal corporation or county board  
11 of education. Proceedings for such appropriation of prop-  
12 erty shall be under and pursuant to the general provisions  
13 of law relating to condemnation proceedings in the  
14 exercise of eminent domain; provided that the board  
15 shall be under no obligation to accept and pay for any  
16 property condemned, and shall in no event pay for prop-  
17 erty condemned or purchased, except from funds pro-  
18 vided pursuant to this article; and in any proceedings to  
19 condemn such orders may be made as may be just to  
20 the board and the owners of the property to be con-  
21 demned; and an understanding or other security may be  
22 required securing such owners against any loss or damage  
23 which may be sustained by reason of the failure of the

24 board to accept and pay for the property, but such under-  
25 taking or security shall impose no liability upon the board,  
26 except such as may be paid from the funds provided  
27 under the authority of this article.

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

39 In the event of the acquisition of any athletic estab-  
40 lishment already constructed by purchase or condem-  
41 nation, the board at or before the time of the adoption  
42 of the resolution described in section six hereof, shall  
43 cause to be determined what repairs, replacements, ad-  
44 ditions and improvements will be necessary, in order

45 that said establishment may be effective for its purpose,  
46 and an estimate of the cost of such improvements shall  
47 be included in the estimate of the costs required by  
48 section six hereof, and such improvements shall be made  
49 upon the acquisition of the establishment and as a part  
50 of the cost thereof; *provided, however, That* no board  
51 shall, under the authority conferred by this act, con-  
52 demn any existing privately owned athletic establish-  
53 ment in operation at the date of the condemnation.

Sec. 8. *Bonds for Improvements and Extension of Exist-*  
2 *ing Athletic Establishments.*—Whenever any board now  
3 or hereafter, shall own and operate any athletic estab-  
4 lishment as herein defined, whether acquired or construct-  
5 ed under the provisions of this article or not, and shall  
6 desire to construct improvements, enlargements and ex-  
7 tensions thereto, or acquire or construct better equip-  
8 ment for the same, it may issue revenue bonds under  
9 the provisions of this article to pay for the same, and  
10 the procedure therefor shall be the same as in this article  
11 provided for the issuance of bonds for acquisition or con-  
12 struction of such athletic establishment; *provided, how-*

13 ever, That no existing obligations or rights shall be affect-  
14 ed or impaired thereby.

Sec. 9. *Items of Expense Included in Cost of Athletic*  
2 *Establishment.*—The cost of the athletic establishment  
3 shall be deemed to include the cost of the acquisition  
4 or construction and equipment thereof, the cost of all  
5 property and easements deemed necessary or convenient  
6 therefor; interest upon bonds prior to and during con-  
7 struction or acquisition and for six months after com-  
8 pletion of construction or acquisition; engineering and  
9 legal expense; expense for estimates of cost and of rev-  
10 enues; expense for plans, specifications and surveys; other  
11 expenses necessary or incident to determining the feas-  
12 ibility or practicability of the enterprise; administrative  
13 expense; and such other expenses as may be necessary  
14 or incident to the financing herein authorized and the  
15 construction or acquisition of the establishment and plac-  
16 ing the same in operation, and the performance of the  
17 things herein required or permitted in connection with  
18 any thereof.

Sec. 10. *Bonds to be Payable from Revenues only;*

2 *Exemption from Taxation.*—Funds for the payment of  
3 all or such part of the costs of such athletic establishment  
4 as may be determined by the board, shall be provided  
5 by the issuance of revenue bonds of such board. Such  
6 bonds shall be payable solely from the special fund here-  
7 in provided for such payment; and such bonds shall not  
8 in any respect be a corporate indebtedness of the county  
9 court, municipal corporation or county board of education  
10 issuing the same. All such bonds shall be exempt from  
11 taxation by the State of West Virginia or any county or  
12 municipality therein. All of the details of such bonds and  
13 the issuance thereof shall be determined by resolution  
14 of the board.

Sec. 11. *Interest Rate and Life of Bonds; Redemption;*  
2 *How Payable, Form, Denominations; Additional Bonds*  
3 *Authorized; Interim Certificates.*—Such revenue bonds  
4 shall bear interest at not more than six per cent per  
5 annum, payable annually or at shorter intervals, and  
6 shall mature at such time or times not exceeding thirty  
7 years from the date thereof, as may be determined by  
8 resolution of the board. Such bonds may be made re-

9 deemable before maturity, at the option of the board,  
10 at not more than the par value thereof plus five per cent,  
11 under such terms and conditions as may be fixed by the  
12 resolution authorizing the issuance of the bonds. The  
13 principal and interest of the bonds may be made pay-  
14 able in any lawful medium. Said resolution shall deter-  
15 mine the form of the bonds, including the interest cou-  
16 pons to be attached thereto, if any, and shall fix the de-  
17 nomination or denominations of such bonds, and the place  
18 or places of the payment of the principal and interest  
19 thereof, which may be at any bank or trust company with-  
20 in or without the state, or at such other place as said  
21 resolution may provide. The bonds shall contain a state-  
22 ment on their face that the board shall not be obli-  
23 gated to pay the same, or the interest thereon, except  
24 from the special fund derived from the net revenue  
25 of the athletic establishment, or a certain pro rata part  
26 thereof, as the case may be. All such bonds shall be, and  
27 shall have, and are hereby declared to have all the  
28 qualities and incidents of negotiable instruments, under  
29 the negotiable instruments law of this state. Provision

30 may be made for the registration of any of the bonds  
31 in the name of the owner as to principal alone. Bonds  
32 shall be executed in such manner as the board may  
33 direct. The bonds shall be sold by the board in such  
34 manner as may be determined to be for the best inter-  
35 est of the board: *Provided, however,* That said bonds  
36 shall not be negotiated at a price lower than a price  
37 which when computed to maturity upon standard tables  
38 of bond values will show a net return of six per cent  
39 annum to the purchaser upon the amount paid therefor.  
40 Any surplus of the proceeds from the sale of such bonds  
41 over and above the cost of such athletic establishment  
42 shall be paid into the sinking fund hereinafter provided.  
43 If the proceeds of the bonds shall be less than the cost of  
44 the athletic establishment, additional bonds may in like  
45 manner be issued to provide the amount of such deficit,  
46 and unless otherwise provided in the resolution author-  
47 izing the issuance of the bonds first issued, or in the trust  
48 indenture hereinafter authorized, shall be deemed to be  
49 of same issue, and shall be entitled to payment without  
50 preference or priority of the bonds first issued, but such



51 preference or priority shall not extend to an amount  
52 exceeding ten per cent of the original issue. Prior to the  
53 preparation of the definite bonds, interim certificates may,  
54 under like restrictions, be issued with or without coupons  
55 exchangeable for definite bonds upon the issuance of the  
56 latter.

Sec. 12. *Obligations not to Bind Member of Board Per-*  
2 *sonally.*—No member of any board or any committee  
3 appointed by such board hereunder shall in any event be  
4 personally liable upon any contract or obligation of any  
5 kind or character executed under the authority contained  
6 in this article, even if said undertaking should hereafter  
7 be held ultra vires.

Sec. 13. *Additional Bonds for Extension or Improve-*  
2 *ments of Athletic Establishments.*—Any board may pro-  
3 vide by the resolution authorizing the issuance of the  
4 bonds or in the trust indenture hereinafter referred to,  
5 that additional bonds may thereafter be authorized and  
6 issued at one time, or from time to time, under such limi-  
7 tations and restrictions as may be set forth in said reso-  
8 lution or trust indenture, for the purpose of extending or

9 improving such athletic establishments when deemed  
10 necessary in the public interest, such additional bonds to  
11 be secured and be payable from the revenues of the ath-  
12 letic establishment, as provided in section eight of this  
13 article.

Sec. 14. *How Proceeds of Bonds Applied.*—All moneys  
2 received from the sale of any bonds issued pursuant to  
3 this article, after reimbursements and re-payments to said  
4 board of all amounts advanced for preliminary expenses,  
5 as provided in section five of this article, shall be applied  
6 solely to the payment of the costs of the athletic estab-  
7 lishment, or to the appurtenant sinking fund, and there  
8 shall be, and hereby is created and granted a lien upon  
9 such money, until so applied, in favor of the holders of  
10 the bonds or the trustees hereafter provided for.

Sec. 15. *Bonds Secured by Trust Indenture Between*  
2 *Board and Corporate Trustees.*—In the discretion and at  
3 the option of the board such bonds may be secured by a  
4 trust indenture by and between the board and a corporate  
5 trustee which may be a trust company or bank having  
6 powers of a trust company within or without the state

7 of West Virginia, but no such trust indenture shall convey,  
8 mortgage or create any lien upon the athletic establish-  
9 ment or any part thereof.

10 The resolution authorizing the revenue bonds, and fix-  
11 ing the details thereof, may provide that such trust in-  
12 denture may contain such provisions for protecting and  
13 enforcing the rights and remedies of bond holders as may  
14 be reasonable and proper, not in violation of law, includ-  
15 ing covenants setting forth the duties of the board, and  
16 any committee appointed by the board under this article,  
17 in relation to the construction or acquisition of the ath-  
18 letic establishment and the improvement, operation, re-  
19 pair, maintenance and insurance thereof, and the custody,  
20 safeguarding and application of all moneys. and may pro-  
21 vide that the athletic establishment shall be contracted  
22 for, constructed and paid for under the supervision and  
23 approval of the consulting engineers employed or desig-  
24 nated by the board and satisfactory to the original bond  
25 purchasers, their successors, assignees or nominees, who  
26 may be given the right to require the security given by  
27 contractors and by any depository of the proceeds of

28 bonds or revenues of the athletic establishment or other  
29 moneys pertaining thereto shall be satisfactory to such  
30 purchasers, their successors, assignees or nominees. Such  
31 indenture may set forth the rights and remedies of the  
32 bond holders and such trustee. Except as in this article  
33 otherwise provided, the board may provide by resolution  
34 or in such trust indenture for the payment of the pro-  
35 ceeds of the sale of the bonds and revenues of the athletic  
36 establishment to such officer, board or depository, as it  
37 may determine, for the custody thereof, and for the  
38 method of distribution thereof, with such safeguards and  
39 restrictions as it may determine.

Sec. 16. *Sinking Fund; Purchase of Outstanding Bonds.*

2 —At or before the issuance of any such bonds, the board  
3 shall, by resolution, provide for a sinking fund for the  
4 payment of the bonds and the interest thereon, and the  
5 payment of the charges of banks or trust companies for  
6 making payment of such bonds, and interest, out of the  
7 net revenues of said athletic establishment, and shall set  
8 aside and pledge a sufficient amount of the net revenues  
9 of the athletic establishment to be paid by the board into

10 such sinking fund at intervals to be determined by reso-  
11 lution adopted prior to the issuance of the bonds, for (a)  
12 the interest upon such bonds as the same becomes due;  
13 (b) the necessary fiscal agency charges for paying bonds  
14 and interest; (c) the payment of the bonds as they fall  
15 due, or if all bonds mature at one time, the maintenance  
16 of a proper sinking fund for the payment thereof at such  
17 time; and (d) a margin for safety and for the payment  
18 of premium upon bonds retired by call or purchase as  
19 herein provided for, which margin, together with unused  
20 surplus of such margin carried forward from the pre-  
21 ceding year, shall equal ten per cent of all other amounts  
22 so required to be paid into the sinking fund. Such re-  
23 quired payments shall constitute a first charge upon all  
24 the net revenues of the athletic establishment. Net reve-  
25 nues as used herein shall mean the revenues of the ath-  
26 letic establishment remaining after the payment of rea-  
27 sonable expense of operation, repairs, maintenance, in-  
28 surance and all other reasonable costs of maintaining and  
29 operating the same required to be paid from the revenues  
30 thereof. After the payment into the sinking fund as here-

31 in required, the board may at any time in its discretion  
32 transfer all or any part of the balance of the net revenues,  
33 after reserving an amount deemed by the board sufficient  
34 for operation, repairs, maintenance and depreciation for  
35 an ensuing period of not less than twelve months, into  
36 the sinking fund or into a fund for extensions, improve-  
37 ments and additions to such athletic establishment. All  
38 amounts for sinking fund and interest, as and when set  
39 apart for the payment of same, shall be remitted to the  
40 state sinking fund commission at such periods as shall be  
41 designated in the resolution, but in any event at least  
42 thirty days previous to the time interest or principal pay-  
43 ments become due, to be retained and paid out by said  
44 commission, consistent with provisions of this article and  
45 the order pursuant to which such bonds have been issued.  
46 The state sinking fund commission is hereby authorized  
47 to act as fiscal agent for the administration of such sinking  
48 fund under any resolution adopted pursuant to the pro-  
49 visions of this article and shall invest all sinking funds  
50 as provided by general law.

*Sec. 17. Charges for Use of Athletic Establishment.—*

2 The board shall have the power and it shall be its duty,  
3 by resolution to establish and maintain just and equitable  
4 charges and rentals as the case may be, for the use of  
5 such athletic establishment, and may readjust, amend and  
6 modify such charges and rentals from time to time. Such  
7 charges and rentals shall be in such amounts that the  
8 total thereof shall be at least sufficient in each year for  
9 the payment of the proper and reasonable expenses of  
10 operation, repair, replacements and maintenance of the  
11 athletic establishment, and for the payment of the sums  
12 herein required to be paid into the sinking fund. A sched-  
13 ule of the charges and rentals so established shall be kept  
14 on file in the office of the board issuing such bonds and  
15 also in the office of the committee having charge of the  
16 operation of such athletic establishment, if there be such  
17 committee.

Sec. 18. *Accounting System; Yearly Audit; Custodian*  
2 *of Funds.*—Any board issuing revenue bonds under the  
3 provisions of this article, shall install and maintain a  
4 proper system of accounting showing the amount of  
5 revenue received and the application of same and the

6 board shall, at least once a year, cause such accounts to  
7 be properly audited by a competent auditor and the re-  
8 port of such auditor shall be open for inspection at all  
9 reasonable times to any taxpayer, citizen of the county  
10 or any holder of bonds issued under the provisions of this  
11 article, or anyone duly authorized acting for and on be-  
12 half of such taxpayer, citizen or bond holder. The treas-  
13 urer of such board or other official or institution specifi-  
14 cally charged by such board with such duty, shall be  
15 custodian of the funds derived from revenues from such  
16 athletic establishment, and shall give proper bond for  
17 the faithful discharge of his or its duties as such custodian  
18 which bond shall be fixed and approved by the board.  
19 All of the funds received as revenue from said athletic  
20 establishment, and all funds received from the sale of  
21 revenue bonds issued under this article, shall be kept  
22 separate and apart from other funds of the board, and  
23 separate accounts shall be maintained from the several  
24 items required to be set up by section fifteen of this article.

Sec. 19. *Board to Pay Established Charges and Rentals*  
2 *for Use of Establishment.*—The board shall be subject



3 to the same charges and rentals established as herein-  
4 before provided, or to charges and rentals established in  
5 harmony therewith, for the use of such athletic establish-  
6 ment, and shall pay such charges and rentals, when due,  
7 from corporate funds, and the same shall be deemed to  
8 be a part of the revenues of the athletic establishment as  
9 herein defined, and may be applied as herein provided  
10 for the application of such revenues.

Sec. 20. *Operation Under Supervision and Control of*  
2 *Board; Leasing.*—The board may, in its discretion, pro-  
3 vide by resolution that the custody, administration, op-  
4 eration and maintenance of such athletic establishment  
5 shall be under the supervision and control of a committee  
6 as provided by section three hereof, and in such case, the  
7 board may provide by resolution for said committee to  
8 exercise such of the functions of the board in connection  
9 with said establishment as they consider proper, and may  
10 provide for said committee to receive such compensation  
11 as such board may deem proper, all of which authority  
12 and compensation shall be specifically provided for by  
13 resolution. All compensation and expenses of such com-

14 mittee shall be paid solely from funds provided under the  
15 authority of this article. Such committee shall have power  
16 to establish by-laws, rules and regulations for its own gov-  
17 ernment.

18 The board also, in its discretion, may provide by reso-  
19 lution for the leasing of such athletic establishment or  
20 any part thereof and provide for the custody, operation  
21 and maintenance thereof by a lessee in accordance with  
22 the provisions of such resolution and lease contract ex-  
23 ecuted pursuant thereto: *Provided, however,* That the  
24 lessee shall pay to the board for the use of such athletic  
25 establishment, or part thereof, an amount which when  
26 added to other revenues therefrom shall be sufficient to  
27 provide a sinking fund for the payment of the bonds and  
28 the interest thereon and all other charges mentioned in  
29 section sixteen hereof.

Sec. 21. *When Statutory Mortgage Lien Created; En-  
2 forcement by Bond Holders; Receivership.*—In the event  
3 bonds issued hereunder are not secured by a trust in-  
4 denture as provided for in section fifteen of this article,  
5 there shall be, and there is hereby, created a statutory

6 mortgage lien upon such athletic establishment acquired  
7 or constructed under the provisions of this article, which  
8 shall exist in favor of the holder of said bonds, and each  
9 of them, and to and in favor of the holder of the coupons  
10 attached to said bonds, and such athletic establishment  
11 shall remain subject to such statutory mortgage lien until  
12 payment in full of the principal and interest of said bonds.  
13 Any holder of bonds issued under the provisions of this  
14 act, or of any coupons representing interest accrued there-  
15 on, may, either at law or in equity, enforce the statutory  
16 mortgage lien hereby conferred and may, by proper suit,  
17 compel the performance of the duties of the board set  
18 forth in this article.

Sec. 22. *Acquisition of Property on Which Loan Ex-*  
2 *ists.*—No property shall be acquired under this article  
3 upon which any lien or other encumbrance exists, unless  
4 at the time such property is acquired a sufficient sum of  
5 money, derived from the sale of bonds issued hereunder  
6 or otherwise, be deposited in trust to pay and redeem  
7 such lien or encumbrance in full.

Sec. 23. *Protection and Enforcement of Rights of*

2 *Bondholders; Receivership, including Lessee.*—Any hold-  
3 er of any such bonds or any of the coupons attached  
4 thereto, and the trustee, if any, except to the extent that  
5 the rights herein given may be restricted by the resolu-  
6 tion authorizing issuance of the bonds or by the trust  
7 indenture, may either at law or in equity, by suit, action,  
8 mandamus, or other proper proceeding protect and en-  
9 force any and all rights granted hereunder or under such  
10 resolution or trust indenture and may enforce and com-  
11 pel performance of all duties required by this article, or  
12 by such resolution or trust indenture to be performed by  
13 the board or the committee, including the making and  
14 collecting of reasonable and sufficient charges and rentals  
15 for the use of such athletic establishment. If there be  
16 default in the payment of the principal or interest of  
17 any of the bonds on the date therein named for such pay-  
18 ment, which default continues for a period of sixty days,  
19 any court having jurisdiction may appoint a receiver to  
20 administer the athletic establishment on behalf of the  
21 board, the bond holders and trustee, if any, subject to  
22 the restrictions in the resolution or trust indenture, if any,

23 with power to charge and collect charges and rentals  
24 sufficient to provide for the payment of the expenses of  
25 operation, repair and maintenance, and also to pay any  
26 bonds and interest outstanding and to apply the revenues  
27 in conformity with this article and said resolution and  
28 trust indenture, if any; and the power herein provided  
29 for the appointment of a receiver shall apply to cases  
30 where such athletic establishment is operated by a lessee  
31 of the board as well as to cases where operated by the  
32 board. In case a receiver is appointed for an athletic  
33 establishment operated by a lessee, the lease agreement  
34 then existing between the board and the lessee shall be  
35 automatically terminated and all property, equipment, ac-  
36 counts receivable and assets of every kind used in con-  
37 nection with the operation of such athletic establishment  
38 shall pass to the receiver, and upon the termination of  
39 such receivership, such athletic establishment, property,  
40 equipment, accounts receivable and assets of every kind  
41 then in the hands of the receiver shall pass again to the  
42 board.

Sec. 24. *Article Confers Additional Powers.*—The au-

2 thority herein given shall be in addition to and not in  
3 derogation of any power existing in any county board  
4 of education under any constitutional, statutory or other  
5 provisions of the law which it now may have or may here-  
6 after acquire.

Sec. 25. *Construction of Powers Conferred.*—This ar-  
2 ticle shall, without reference to any other statute, be  
3 deemed full authority for the construction, acquisition,  
4 improvement, equipment, maintenance, operation and  
5 repair of the athletic establishment herein provided for,  
6 and for the issuance and sale of bonds by this article  
7 authorized, and shall be construed as an additional alter-  
8 native method therefor, and for the financing thereof, and  
9 no petition or other or further proceeding in respect to  
10 the construction or acquisition or improvement of such  
11 athletic establishment, or to the acquisition or sale of  
12 bonds for the improvement of such athletic establishment,  
13 or in respect to the issuance or sale of bonds under this  
14 article, and no publication of any resolution, notice, or  
15 proceeding relating to such construction, improvement  
16 or acquisition, or to the issuance or sale of such bonds

17 shall be required, except such as are prescribed under  
18 this article, any provisions of other statutes of the state  
19 to the contrary notwithstanding.

Sec. 26. *Article Liberally Construed.*—This article be-  
2 ing for the public health, safety, and welfare, shall be  
3 liberally construed to effectuate the purposes thereof.

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

*Forest L. McMan*  
Chairman Senate Committee

*R. R. Rouse*  
Chairman House Committee

Originated in the House of Delegates

Takes effect From passage.

*Howard Meyer*  
Clerk of the Senate

*J. A. Smith*  
Clerk of the House of Delegates

*Samuel R. Shelton*  
President of the Senate

*W. E. Hammon*  
Speaker House of Delegates

The within APPROVED this the 18TH

day of MARCH, 1949.

*Oliver L. Pattison*  
Governor.



Filed in the Office of the Secretary of State  
of West Virginia MAR 18 1949  
D. PITT O'BRIEN,  
SECRETARY OF STATE