WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1953

ENROLLED

Committee Substitute for

HOUSE BILL No. 237

Originating in the Committee on the Judiciary

(By Mr. [Signature])

PASSED March 13, 1953

In Effect... days from Passage
ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 237

(Originating in the Committee on the Judiciary.)

[Passed March 13, 1953; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article thirteen-a, providing for the creation of public service districts, prescribing the powers and duties of such districts in the acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, and to authorize the issuance of bonds of such districts payable solely from the revenue to be derived from the operation of such properties.

Be it enacted by the Legislature of West Virginia:

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

Section 1. General Purpose of Districts.—Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying water or sewerage services, or both, within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties", when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"), or (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities.")
Sec. 2. Creation of Districts by County Court.—The county court of any county may on its own motion by order duly adopted propose the creation of such public service district within such county, setting forth in such order a description sufficient to identify the territory to be embraced therein and the name of such proposed district, or any one hundred legal voters resident within and owning real property within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which petition shall contain a description sufficient to identify the territory to be embraced therein and the name of such proposed district. Any territory may be included regardless of whether or not such territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: Provided, however, That no territory shall be included within more than one public service district organized under this
article and the boundaries shall conform to or follow magisterial district lines except where less than a whole or any magisterial district is to be included, in which latter case that part of any such boundary shall conform to other natural boundary lines, or the lines of a fixed survey: And provided further, however, That no city, incorporated town or other municipal corporation shall be included within the boundaries of such proposed district except upon the adoption of a resolution of the governing body of such city, incorporated town or other municipal corporation consenting thereto.

Such petition shall be filed in the office of the clerk of the county court of the county in which the territory to constitute the proposed district is situated, and if such territory is situated in more than one county then such petition shall be filed in the office of the clerk of the county court of the county in which the major portion of such territory extends, and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county courts of the other county or counties into which the territory extends. It shall be the duty of the clerk of the county
court receiving such petition to present same to the county
court of such county at the first regular meeting after
such filing or at a special meeting called for the considera-
tion thereof.

When the county clerk of any county enters an order
on its own motion proposing the creation of a public serv-
ice district, as aforesaid, or when a petition for such crea-
tion is presented, as aforesaid, the county court shall at
the same session fix a date of hearing in such county on
the creation of the proposed public service district, which
date so fixed shall be not more than forty days nor less
than twenty days from the date of such action. If the ter-
ritory proposed to be included is situated in more than
one county, the county court, when fixing a date of hear-
ing, shall provide for notifying the county court and
clerk thereof of each of the other counties into which the
territory extends of the date so fixed. The clerk of the
county court of each county in which any territory in the
proposed public service district is located shall cause
notice of such hearing and the time and place thereof, and
setting forth a description of all of the territory proposed
to be included therein to be given by publication at least once in a newspaper of general circulation published in such county at least ten days prior to such hearing. In all cases where proceedings for the creation of such public service districts are initiated by petition as aforesaid the person filing the petition shall advance or satisfactorily indemnify the payment of the costs and expenses of publishing the hearing notice, and otherwise the costs and expenses of such notice shall be paid in the first instance by the county court out of contingent funds or any other funds available or made available for that purpose.

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county court before which the hearing is conducted shall consider and determine the feasibility of the creation of the proposed district. When it shall have been thus determined that the construction or acquisition by purchase or otherwise, and maintenance, operation, improvement, and extension of public service properties by such public service district will be conducive
to the preservation of public health, comfort and convenience of such area, then such county court shall by order create such public service district, and such order shall be conclusive and final in that regard. The clerk of the county court of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating the same.

Provided, however, That if at such hearing written protest is filed by thirty per cent or more of the qualified voters registered and residing within said district, then the county court shall not take any further action in creating such district unless the creation of such district shall be approved by a majority vote of the qualified registered voters voting at a referendum to be called by the county court for such purpose. Such referendum shall be called and held in the manner provided in the general election laws of the state of West Virginia applicable thereto and the funds therefor shall be supplied from any county funds available for such purpose, or from funds supplied from the persons who petitioned for the creation of such district. If a majority of the qualified
106 registered electors participating in said election shall
107 vote against the creation of said district, then such district
108 shall not be created. If, however, a majority of the
109 qualified, registered voters participating in such refer-
110 endum vote in favor of the creation of such district, then
111 the county court shall duly enter its order creating such
112 district.

Sec. 3. Powers of Districts, Creation of Governing
2 Boards.—From and after the date of the adoption of the
3 order creating any such public service district, it shall
4 thereafter be a public corporation and political sub-
5 division of the state with power of perpetual succession,
6 but without any power to levy or collect ad valorem
7 taxes. Each such district shall have power to acquire,
8 own and hold property, both real and personal, in its
9 corporate name, and shall have power to sue, may be sued,
10 may adopt an official seal, and may enter into contracts
11 necessary or incidental to its purposes, including con-
12 tracts with any city, incorporated town or other municipal
13 corporation located within or without its boundaries for
14 furnishing wholesale supply of water for the distribution
system of such city, town or other municipal corpora-
tion, and contract for the operation, maintenance, servic-
ing repair and extension of any properties owned by it,
or for the operation and improvement or extension by
such district of all or any part of the existing municipally
owned public service properties of any city, incorporated
town or other municipal corporation included within
such district; Provided, That no such contract shall extend
over a period of forty years, but provisions may be in-
cluded therein for a renewal or successive renewals
thereof, and shall confirm to and comply with the rights
of the holders of any outstanding bonds issued by such
municipalities for such public service properties.
The powers of each such public service district shall
be vested in and exercised by a public service board
consisting of not less than three members, who shall
be appointed in the following manner:
Each city, incorporated town, or other municipal cor-
poration having a population in excess of three thousand,
but not exceeding eighteen thousand, shall be entitled to
appoint one member of such board, and each such city,
36 incorporated town, or other municipal corporation having
37 a population in excess of eighteen thousand shall be
38 entitled to appoint one additional member of such board
39 for each additional eighteen thousand population. The
40 members of said board representing such cities, incor-
41 porated towns or other municipal corporations shall be
42 residents thereof and shall be appointed by a resolution
43 of the governing bodies thereof, and upon the filing of a
44 certified copy or copies of such resolution or resolutions
45 in the office of the clerk of the county court which en-
46 tered the order creating such district, such persons so
47 appointed shall thereby become members of said board
48 without any further act or proceedings. If the number
49 of members of said board so appointed by the governing
50 bodies of cities, incorporated towns or other municipal
51 corporations included in the district shall equal or exceed
52 three, then no further members shall be appointed to
53 such board and such member shall be and constitute
54 the board of said district.
55 If no city, incorporated town or other municipal cor-
56 poration having a population in excess of three thousand
is included within the district, then the county court
which entered the order creating the district shall ap-
point three members of said board, who shall be persons
residing within the district, which said three members
shall become members of and constitute the board of said
district without any further act or proceedings.

If the number of members of said board appointed by
the governing bodies of cities, incorporated towns or other
municipal corporations included within the district shall
be less than three, then the county court which entered
the order creating the district shall appoint such addi-
tional member or members of said board, who shall
be persons residing within the district, as shall be neces-
sary to make the number of members of said board equal
three, and said additional member or members shall
thereupon become members of such board; and the mem-
ber or members appointed by the governing bodies of
the cities, incorporated towns or other municipal cor-
porations included within the district and the additional
member or members appointed by such county court as
aforesaid, shall be and constitute the board of said district.
The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of such board, if any, to be appointed by the governing body or bodies thereof, shall be conclusively deemed to be the population stated for such city, incorporated town or other municipal corporation in the official federal census for the year one thousand nine hundred fifty.

The respective terms of office of the members of the first board shall be fixed by the county court and shall be as equally divided as may be, that is approximately one-third of the members for a term of two years, a like number for a term of four, and the term of the remaining member or members for six years, from the first day of the month during which such appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county court which entered the order creating the district as soon as practicable after such appointments and shall qualify by taking an oath of office. Any vacancy shall be filled for the unexpired term, and otherwise successor members of the board shall be ap-
pointed for terms of six years, and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed.

The board shall organize promptly following the first appointments, and annually thereafter at its first meeting after January one of each year, by selecting one of its members to serve as chairman and by appointing a secretary and a treasurer who need not be members of such board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. The treasurer shall be the lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board. The secretary and treasurer shall perform such other duties appertaining to the affairs of the district and shall receive such salaries as shall be prescribed by the board, and either or both may be required to furnish bond in sums to be fixed by the board for the use and benefit of the district.

Sec. 4. Procedural Regulations.—The chairman shall
2 preside at all meetings of the board and shall have the
3 right to vote as any other members of the board, but if
4 he should be absent from any meeting the remaining
5 members may select a temporary chairman, and if the
6 member selected as chairman resigns as such or ceases
7 for any reason to be a member of the board, the board
8 shall select one of its members as chairman to serve until
9 the next annual organization meeting. The board shall
10 fix the salaries of each of its members, but same shall
11 not be on a basis of more than five hundred dollars per
12 annum payable in equal monthly amounts. The board
13 shall by resolution determine its own rules of procedure,
14 fix the time and place of its meetings and the manner in
15 which special meetings may be called. A majority of the
16 members constituting the board shall also constitute a
17 quorum to do business. The members of the board shall
18 not be personally liable or responsible for any obligations
19 of the district or the board, but shall be answerable only
20 for willful misconduct in the performance of their duties.
21 At any time prior to the issuance of bonds as hereinafter
22 provided the board may by resolution change the official
or corporate name of the public service district and such
change shall be effective from and after filing an authen-
ticated copy of such resolution with the clerk of the
county court of each county in which the territory em-
braced within such district or any part thereof is located.
The official name of any district created under the pro-
visions of this act may contain the name or names of any
city, incorporated town or other municipal corporation
included therein or the name of any county or counties
in which it is located.

Sec. 5. General Manager.—The board may appoint a
general manager to serve a term of not more than five
years and until his successor is appointed, and his com-
pensation shall be fixed by resolution of the board. Such
general manager shall devote all or the required portion
of his time to the affairs of the district and shall have
power to employ, discharge and fix the compensation of
all employees of the district, except as in this article
otherwise provided, and he shall perform and exercise
such other powers and duties as may be conferred upon
him by the board.
Such general manager shall be chosen without regard to his political affiliations and upon the sole basis of his administrative and technical qualifications to manage public service properties and affairs of the district and he may be discharged only upon the affirmative vote of two-thirds of the board. Such general manager need not be a resident of the district at the time he is chosen.

Sec. 6. Employees.—The board may in its discretion from time to time by resolution passed by a majority vote provide for the appointment of an attorney, fiscal agent, one or more engineers, and such other officers as said board may determine necessary and expedient. The board shall in and by such resolution fix the term of office, compensation, and prescribe the duties to be performed by such appointees or officers.

Sec. 7. Acquisition and Operation of District Properties.—The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district and shall have power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the
district of more than two thousand dollars for construction
work or for the purchase of equipment and improvements,
extensions or replacements, shall be entered into only
after notice inviting bids shall have been published in a
newspaper of general circulation in the district at least
once not less than ten days prior to the date of making
any such contract. Any obligations incurred of any kind
or character shall not in any event constitute or be deemed
an indebtedness within the meaning of any of the pro-
visions or limitations of the constitution but all such
obligations shall be payable solely and only out of re-
venues derived from the operation of the public service
properties of the district or from proceeds of bonds issued
as hereinafter provided. No continuing contract for the
purchase of materials or supplies or for furnishing the
district with electrical energy or power shall be entered
into for a longer period than fifteen years.

Sec. 8. Purchase; Eminent Domain; Extra Territorial
Powers.—The board is hereby authorized to acquire any
publicly or privately owned public service properties
located within the boundaries of the district regardless
of whether or not all or any part of such properties are located within the corporate limits of any city, incorporated town or other municipal corporation, included within the district, and shall have power to purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board shall have power and authority to construct any public service properties within or outside the district necessary or incidental to its purposes, and each such district is hereby empowered and authorized to acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town, or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district: Provided, however That if any incorporated city, town or other municipal corporation included within the district shall own and operate either water facilities or sewer facilities, or both, then the district shall not acquire, construct, establish, improve or extend any public service pro-
perties of the same kind within such city, incorporated
towns or other municipal corporations, or the adjacent
unincorporated territory served by such cities, incorpor-
ated towns or other municipal corporations, except upon
the consent of such cities, incorporated towns or other
municipal corporations, and in conformity and compliance
with the rights of the holders of any revenue bonds or
obligations theretofore issued by such cities, incorporated
towns or other municipal corporations then outstanding,
and in accordance with the ordinance, resolution or other
proceedings which authorize the issuance of such revenue
bonds or obligations.

Whenever such district shall have constructed, acquired
or established water facilities or sewer facilities for water
or sewer services within any city, incorporated town or
other municipal corporation included within a district,
then such city, incorporated town or other municipal cor-
poration shall not thereafter construct, acquire or estab-
lish any facilities of the same kind within such city, in-
corporated town or other municipal corporation without
the consent of such district.
For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district shall have the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, however, That such board shall not acquire all or any substantial part of a privately owned waterworks system, unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system located in or furnishing water service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor shall any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or extensions made or to be made in territory con-
Sec. 9. Service Rates and Charges.—The board shall have the power to make, enact and enforce all needful rules and regulations in connection with the acquisition construction, improvement, extension, management, main-
tenance, operation, care, protection and the use of any public service properties owned or controlled by the dis-
trict, and it shall be the duty of such board to establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued and other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the con-
sumption of water on premises connected with such faci-
lities, taking into consideration domestic, commercial,
industrial and public use of water; or (b) the number
and kind of fixtures connected with such facilities located
on the various premises; or (c) the number of persons
served by such facilities; or (d) any combination thereof;
or (e) may be determined on any other basis or classi-
fication which the board may determine to be fair and
reasonable taking into consideration the location of the
premises served and the nature and extent of the services
and facilities furnished. Where both water and sewer
services are furnished to any premises the schedule of
charges may be billed as a single amount for the aggregate
thereof. Whenever any rates, rentals or charges for ser-
vices or facilities furnished shall remain unpaid for a
period of thirty days after the same shall become due and
payable the property and the owner thereof, as well as the
user of the services and facilities shall be delinquent until
such time as all such rates and charges are fully paid. The
board shall be obligated under reasonable rules and re-
gulations, to shut off and discontinue both water and
sewer services to all delinquent users of either water faci-
ilities or sewer facilities, or both, and shall not restore
either water facilities or sewer facilities to any delinquent
user of either water facilities or sewer facilities until all
delinquent charges for both water facilities and sewer
facilities, including reasonable interest and penalty
charges, have been paid in full.

In the event that any city, incorporated town or other
municipal corporation included within the district shall
own and operate separately either water facilities or sewer
facilities, and the district shall own and operate within
such city, incorporated town or other municipal corpora-
tion the other kind of facilities, either water or sewer
facilities, as the case may be, then the district and such
city, incorporated town or other municipal corporation
shall have power to covenant and contract with each other
to shut off and discontinue, the supplying of the kind of
facilities furnished by the district or such city, incorpor-
ated town or other municipal corporation as the case may
be, for the non-payment of fees and charges for the other
kind of facilities furnished by the district or city, incor-
porated town or other municipal corporation, as the case
may be.

Any district furnishing sewer facilities within the district shall also have power to require all owners, tenants or occupants of any houses, buildings or premises abutting on any such sewer facilities, or which can use such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, buildings or premises which can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of such districts and of the state.

All delinquent fees, rates and charges of the district for either water facilities or sewer facilities shall be liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. When such fees, rates and charges have been delinquent for thirty days, the district shall have power to forthwith foreclose the lien on the premises
served in the same manner now provided in the laws of
the state of West Virginia for the foreclosure of mortgages
on real property.

Sec. 10. Budget.—The board shall establish the beginning
and ending of its fiscal year, which period shall constitute
its budget year, and at least thirty days prior to the be-
ginning of the first full fiscal year after the creation of the
district and annually thereafter the general manager
shall prepare and submit to the board a tenative budget
which shall include all operation and maintenance ex-
penses for the ensuing fiscal year. Such tenative budget
shall be considered by the board, and, subject to any re-
visions or amendments that may be determined by said
board, shall be adopted as the budget for the ensuing fiscal
year, and no expenditures for operation and maintenance
expenses in excess of the budget, shall be made during
such fiscal year unless unanimously authorized and di-
rected by the board. It shall not be necessary to include
in such budget any statement of necessary expenditures
for annual interest or principal payments on bonds or for
capital outlays, but it shall be the duty of the board to
make provisions for their payment as they become due.

Sec. 11. Accounts; Audits.—It shall be the duty of the
general manager under direction of the board to install
and maintain a proper system of accounts showing re-
ceipts from operation and application of the same, and the
board shall at least once a year cause such accounts to be
properly audited by an independent public accountant.

Sec. 12. Disbursement of District Funds.—No money
shall be paid out by a district except upon an order signed
by the chairman and secretary of such board, or such
other person or persons authorized by the chairman or
secretary, as the case may be, to sign such orders on their
behalf. Each order for the payment of money shall specify
the purposes for which the amount thereof is to be paid,
with sufficient clearness to indicate the purpose for which
the order is issued, and there shall be endorsed thereon
the name of the particular fund out of which it is payable
and it shall be payable from the fund constituted for such
purpose, and no other.

Sec. 13. Revenue Bonds.—For constructing or acquir-
ing any public service properties for the authorized pur-
poses of the district, or necessary or incidental thereto, and
for constructing improvements and extensions thereto,
and also for reimbursing or paying the costs and expenses
of creating the district, the board of any such district is
hereby authorized to borrow money from time to time
and in evidence thereof issue the bonds of such district,
payable solely from the revenues derived from the opera-
tion of the public service properties under control of the
district. Such bonds may be issued in one or more series,
may bear such date or dates, may mature at such time or
times not exceeding forty years from their respective
dates, may bear interest at such rate or rates not exceed-
ing five per cent per annum payable semi-annually, may
be in such form, may carry such registration privileges,
may be executed in such manner, may be payable at such
place or places, may be subject to such terms of redemp-
tion with or without premium, may be declared or become
due before maturity date thereof, may be authenticated
in any manner, and upon compliance with such condi-
tions, and may contain such terms and covenants as may
be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is non-negotiable, all such bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in the office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signature appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed six per cent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advis-
able for the assurance of the payment of the bonds thereby
authorized.

Sec. 14. *Items Included in Cost of Properties.*—The cost
of any public service properties acquired under the pro-
visions of this article shall be deemed to include the cost
of the acquisition or construction thereof, the cost of
all property rights, easements and franchises deemed
necessary or convenient therefor and for the improve-
ments and extensions thereto; interest upon bonds prior
to and during construction or acquisition and for six
months after completion of construction or of acquisition
of the improvements and extensions; engineering, fiscal
agents and legal expenses; expense for estimates of cost
and of revenues, expenses for plans, specifications and
surveys; other expenses necessary or incident to deter-
mining the feasibility or practicability of the enterprise,
administrative expense, and such other expenses as may
be necessary or incident to the financing herein author-
ized, and the construction or acquisition of the properties
and the placing of same in operation, and the performance
of the things herein required or permitted, in connection
with any thereof.

Sec. 15. Trust Indenture.—In the discretion and at the
option of the board such bonds may be secured by a trust
indenture by and between the district and a corporate
trustee, which may be a trust company or bank having
powers of a trust company within or without the state
of West Virginia, but no such trust indenture shall convey,
mortgage or create any lien upon the public service prop-
erties or any part thereof. The resolution authorizing the
bonds and fixing the details thereof may provide that such
trust indenture may contain such provisions for protect-
ing and enforcing the rights and remedies of bondholders
as may be reasonable and proper, not in violation of law,
including covenants setting forth the duties of the district
and the members of its board and officers in relation to
the construction or acquisition of public service properties
and the improvement, extension, operation, repair, main-
tenance and insurance thereof, and the custody, safe-
guarding and application of all moneys, and may provide
that all or any part of the construction work shall be
contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee.

Sec. 16. Sinking Fund for Revenue Bonds.—At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain re-
serves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions.

Sec. 17. Limited Security and Enforcement of Revenue Bonds.—The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal of interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the
trust indenture, if there be one, shall have the right by
suit, action, mandamus or other proceeding instituted in
the circuit court for the county or any of the counties
wherein the district extends, or in any other court of
competent jurisdiction, to enforce and compel perform-
ance of all duties required by this article or undertaken
by the district in connection with the issuance of such
bonds, and upon application of any such holder or hold-
ers, or such trustee, such court shall, upon proof of such
defaults, appoint a receiver for the affairs of the district
and its properties, which receiver so appointed, shall
forthwith directly, or by his agents and attorneys, enter
into and upon and take possession of the affairs of the
district and each and every part thereof, and hold, use,
operate, manage, and control the same, and in the name
of the district exercise all of the rights and powers of
such district as shall be deemed expedient, and such re-
ceiver shall have power and authority to collect and re-
ceive all revenues and apply same in such manner as the
court shall direct. Whenever the default causing the ap-
pointment of such receiver shall have been cleared and

fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided.

Sec. 18. Operating Contracts.—The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid.

Sec. 19. Statutory Mortgage.—There shall be and is
hereby created a statutory mortgage lien upon such public
service properties of the district, which shall exist in
favor of the holders of bonds hereby authorized to be
issued, and each of them, and the coupons attached to
said bonds, and such public service properties shall re-
main subject to such statutory mortgage lien until pay-
ment in full of all principal of and interest on such bonds.
Any holder of such bonds, of any coupons attached there-
to, may, either at law or in equity, enforce said statutory
mortgage lien conferred hereby and upon default in the
payment of the principal of or interest on said bonds, may
foreclose such statutory mortgage lien in the manner now
provided by the laws of the state of West Virginia for the
foreclosure of mortgages on real property.

Sec. 20. Refunding Revenue Bonds.—The board of any
district having issued bonds under the provisions of this
article is hereby empowered thereafter by resolution to
issue refunding bonds of such district for the purpose of
retiring or refinancing such outstanding bonds, together
with any unpaid interest thereon and redemption pre-
mium thereunto appertaining and all of the provisions
of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded.

Sec. 21. Law Complete and to Be Liberally Construed.—This article shall constitute full and complete authority for the creation of public service districts and for carrying out the powers and duties of same as herein provided. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, shall be required in connection therewith except as may be prescribed by this article: Provided, That all functions, powers and duties of the public service commission of West Virginia, the state department of health and the state water commission shall remain unaffected by this article. Every district organized under this article is declared to be a public instrumentality created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it shall be
exempt from taxation by the state of West Virginia, and
the other taxing bodies of the state: *Provided, however,*
That the board of any such district may use and apply
any of its available revenues and income for the payment
of what such board determines to be tax or license fee
equivalents to any local taxing body and in any proceed-
ings for the issuance of bonds of such district may reserve
the right to annually pay a fixed or computable sum to
such taxing bodies as such tax or license fee equivalent.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect, ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 20th day of March, 1953.

[Signature]
Governor

[Stamp]
Mar 20, 1953

D. Pitt O'Brien,
Secretary of State