

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953



## ENROLLED

*Committee substitute for*

HOUSE BILL No. 237

*Originating in the Committee*

(By Mr. *on the Judiciary*)



PASSED

*March 13,* 1953

In Effect

*ninety days from* Passage



237

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COMMITTEE SUBSTITUTE FOR

# House Bill No. 237

(Originating in the Committee on the Judiciary.)

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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:

**Article 13-a. Public Service Districts For Water And Sewerage Services.**

Section 1. *General Purpose of Districts.*—Any territory  
2 constituting the whole or any part of one or more counties  
3 in the state so situated that the construction or acquisition  
4 by purchase or otherwise and the maintenance, operation,  
5 improvement and extension of properties supplying water  
6 or sewerage services, or both, within such territory, will  
7 be conducive to the preservation of the public health, com-  
8 fort and convenience of such area, may be constituted a  
9 public service district under and in the manner provided  
10 by this article. The words “public service properties”,  
11 when used in this article, shall mean and include any  
12 facility used or to be used for or in connection with (1)  
13 the diversion, development, pumping, impounding, treat-  
14 ment, storage, distribution or furnishing of water to or  
15 for the public for industrial, public, private or other uses  
16 (herein sometimes referred to as “water facilities”), or  
17 (2) the collection, treatment, purification or disposal of  
18 liquid or solid wastes, sewage or industrial wastes (herein  
19 sometimes referred to as “sewer facilities.”)

Sec. 2. *Creation of Districts by County Court.*—The

2 county court of any county may on its own motion by  
 3 order duly adopted propose the creation of such public  
 4 service district within such county, setting forth in such  
 5 order a description sufficient to identify the territory to  
 6 be embraced therein and the name of such proposed dis-  
 7 trict, or any one hundred legal voters resident within  
 8 and owning real property within the limits of such pro-  
 9 posed public service district within one or more counties  
 10 may petition for the creation thereof, which petition shall  
 11 contain a description sufficient to identify the territory to  
 12 be embraced therein and the name of such proposed dis-  
 13 trict. Any territory may be included regardless of  
 14 whether or not such territory includes one or more cities,  
 15 incorporated towns or other municipal corporations which  
 16 own and operate any public service properties and re-  
 17 gardless of whether or not it includes one or more cities,  
 18 incorporated towns or other municipal corporations being  
 19 served by privately owned public service properties: *Pro-*  
 20 *vided, however,* That no territory shall be included within  
 21 more than one public service district organized under this

22 article and the boundaries shall conform to or follow  
23 magisterial district lines except where less than a whole  
24 or any magisterial district is to be included, in which lat-  
25 ter case that part of any such boundary shall conform  
26 to other natural boundary lines, or the lines of a fixed  
27 survey: *And provided further, however,* That no city, in-  
28 corporated town or other municipal corporation shall be  
29 included within the boundaries of such proposed district  
30 except upon the adoption of a resolution of the governing  
31 body of such city, incorporated town or other municipal  
32 corporation consenting thereto.

33 Such petition shall be filed in the office of the clerk of  
34 the county court of the county in which the territory to  
35 constitute the proposed district is situated, and if such  
36 territory is situated in more than one county then such  
37 petition shall be filed in the office of the clerk of the  
38 county court of the county in which the major portion of  
39 such territory extends, and a copy thereof (omitting sig-  
40 natures) shall be filed with each of the clerks of the county  
41 courts of the other county or counties into which the terri-  
42 tory extends. It shall be the duty of the clerk of the county

43 court receiving such petition to present same to the county  
 44 court of such county at the first regular meeting after  
 45 such filing or at a special meeting called for the considera-  
 46 tion thereof.

47 When the county clerk of any county enters an order  
 48 on its own motion proposing the creation of a public serv-  
 49 ice district, as aforesaid, or when a petition for such crea-  
 50 tion is presented, as aforesaid, the county court shall at  
 51 the same session fix a date of hearing in such county on  
 52 the creation of the proposed public service district, which  
 53 date so fixed shall be not more than forty days nor less  
 54 than twenty days from the date of such action. If the ter-  
 55 ritory proposed to be included is situated in more than  
 56 one county, the county court, when fixing a date of hear-  
 57 ing, shall provide for notifying the county court and  
 58 clerk thereof of each of the other counties into which the  
 59 territory extends of the date so fixed. The clerk of the  
 60 county court of each county in which any territory in the  
 61 proposed public service district is located shall cause  
 62 notice of such hearing and the time and place thereof, and  
 63 setting forth a description of all of the territory proposed

64 to be included therein to be given by publication at least  
65 once in a newspaper of general circulation published in  
66 such county at least ten days prior to such hearing. In  
67 all cases where proceedings for the creation of such public  
68 service districts are initiated by petition as aforesaid the  
69 person filing the petition shall advance or satisfactorily  
70 indemnify the payment of the costs and expenses of pub-  
71 lishing the hearing notice, and otherwise the costs and  
72 expenses of such notice shall be paid in the first instance  
73 by the county court out of contingent funds or any other  
74 funds available or made available for that purpose.

75 All persons residing in or owning or having any interest  
76 in property in such proposed public service district shall  
77 have an opportunity to be heard for and against its crea-  
78 tion. At such hearing the county court before which the  
79 hearing is conducted shall consider and determine the  
80 feasibility of the creation of the proposed district. When  
81 it shall have been thus determined that the construction  
82 or acquisition by purchase or otherwise, and maintenance,  
83 operation, improvement, and extension of public service  
84 properties by such public service district will be conducive

85 to the preservation of public health, comfort and con-  
86 venience of such area, then such county court shall by  
87 order create such public service district, and such order  
88 shall be conclusive and final in that regard. The clerk of  
89 the county court of each county into which any part of  
90 such district extends shall retain in his office an authentic  
91 copy of the order creating the same.

92 *Provided, however,* That if at such hearing written pro-  
93 test is filed by thirty per cent or more of the qualified  
94 voters registered and residing within said district, then  
95 the county court shall not take any further action in  
96 creating such district unless the creation of such district  
97 shall be approved by a majority vote of the qualified  
98 registered voters voting at a referendum to be called by  
99 the county court for such purpose. Such referendum  
100 shall be called and held in the manner provided in the  
101 general election laws of the state of West Virginia ap-  
102 plicable thereto and the funds therefor shall be supplied  
103 from any county funds available for such purpose, or  
104 from funds supplied from the persons who petitioned for  
105 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

15 system of such city, town or other municipal corpora-  
16 tion, and contract for the operation, maintenance, servic-  
17 ing repair and extension of any properties owned by it,  
18 or for the operation and improvement or extension by  
19 such district of all or any part of the existing municipally  
20 owned public service properties of any city, incorporated  
21 town or other municipal corporation included within  
22 such district; *Provided*, That no such contract shall extend  
23 over a period of forty years, but provisions may be in-  
24 cluded therein for a renewal or successive renewals  
25 thereof, and shall confirm to and comply with the rights  
26 of the holders of any outstanding bonds issued by such  
27 municipalities for such public service properties.

28 The powers of each such public service district shall  
29 be vested in and exercised by a public service board  
30 consisting of not less than three members, who shall  
31 be appointed in the following manner:

32 Each city, incorporated town, or other municipal cor-  
33 poration having a population in excess of three thousand,  
34 but not exceeding eighteen thousand, shall be entitled to  
35 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

57 is included within the district, then the county court  
 58 which entered the order creating the district shall ap-  
 59 point three members of said board, who shall be persons  
 60 residing within the district, which said three members  
 61 shall become members of and constitute the board of said  
 62 district without any further act or proceedings.

63 If the number of members of said board appointed by  
 64 the governing bodies of cities, incorporated towns or other  
 65 municipal corporations included within the district shall  
 66 be less than three, then the county court which entered  
 67 the order creating the district shall appoint such addi-  
 68 tional member or members of said board, who shall  
 69 be persons residing within the district, as shall be neces-  
 70 sary to make the number of members of said board equal  
 71 three, and said additional member or members shall  
 72 thereupon become members of such board; and the mem-  
 73 ber or members appointed by the governing bodies of  
 74 the cities, incorporated towns or other municipal cor-  
 75 porations included within the district and the additional  
 76 member or members appointed by such county court as  
 77 aforesaid, shall be and constitute the board of said district.

78 The population of any city, incorporated town or other  
79 municipal corporation, for the purpose of determining the  
80 number of members of such board, if any, to be appointed  
81 by the governing body or bodies thereof, shall be con-  
82 clusively deemed to be the population stated for such  
83 city, incorporated town or other municipal corporation  
84 in the official federal census for the year one thousand nine  
85 hundred fifty.

86 The respective terms of office of the members of the first  
87 board shall be fixed by the county court and shall be as  
88 equally divided as may be, that is approximately one-third  
89 of the members for a term of two years, a like number for  
90 a term of four, and the term of the remaining member or  
91 members for six years, from the first day of the month dur-  
92 ing which such appointments are made. The first members  
93 of the board appointed as aforesaid shall meet at the office  
94 of the clerk of the county court which entered the order  
95 creating the district as soon as practicable after such ap-  
96 pointments and shall qualify by taking an oath of office.

97 Any vacancy shall be filled for the unexpired term, and  
98 otherwise successor members of the board shall be ap-

99 pointed for terms of six years, and the terms of office  
100 shall continue until successors have been appointed and  
101 qualified. All successor members shall be appointed in  
102 the same manner as the member succeeded was appointed.

103 The board shall organize promptly following the first  
104 appointments, and annually thereafter at its first meeting  
105 after January one of each year, by selecting one of its  
106 members to serve as chairman and by appointing a secre-  
107 tary and a treasurer who need not be members of such  
108 board. The secretary shall keep a record of all proceed-  
109 ings of the board which shall be available for inspection  
110 as other public records. The treasurer shall be the lawful  
111 custodian of all funds of the public service district and  
112 shall pay same out on orders authorized or approved by  
113 the board. The secretary and treasurer shall perform such  
114 other duties appertaining to the affairs of the district and  
115 shall receive such salaries as shall be prescribed by the  
116 board, and either or both may be required to furnish bond  
117 in sums to be fixed by the board for the use and benefit  
118 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

23 or corporate name of the public service district and such  
24 change shall be effective from and after filing an authen-  
25 ticated copy of such resolution with the clerk of the  
26 county court of each county in which the territory em-  
27 braced within such district or any part thereof is located.  
28 The official name of any district created under the pro-  
29 visions of this act may contain the name or names of any  
30 city, incorporated town or other municipal corporation  
31 included therein or the name of any county or counties  
32 in which it is located.

Sec. 5. *General Manager.*—The board may appoint a  
2 general manager to serve a term of not more than five  
3 years and until his successor is appointed, and his com-  
4 pensation shall be fixed by resolution of the board. Such  
5 general manager shall devote all or the required portion  
6 of his time to the affairs of the district and shall have  
7 power to employ, discharge and fix the compensation of  
8 all employees of the district, except as in this article  
9 otherwise provided, and he shall perform and exercise  
10 such other powers and duties as may be conferred upon  
11 him by the board.



12 Such general manager shall be chosen without regard  
13 to his political affiliations and upon the sole basis of his  
14 administrative and technical qualifications to manage  
15 public service properties and affairs of the district and  
16 he may be discharged only upon the affirmative vote  
17 of two-thirds of the board. Such general manager need  
18 not be a resident of the district at the time he is chosen.

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

Sec. 7. *Acquisition and Operation of District Properties.*  
2 —The board of such districts shall have the supervision  
3 and control of all public service properties acquired or  
4 constructed by the district and shall have power, and it  
5 shall be its duty, to maintain, operate, extend and improve  
6 the same. All contracts involving the expenditure by the

7 district of more than two thousand dollars for construction  
8 work or for the purchase of equipment and improvements,  
9 extensions or replacements, shall be entered into only  
10 after notice inviting bids shall have been published in a  
11 newspaper of general circulation in the district at least  
12 once not less than ten days prior to the date of making  
13 any such contract. Any obligations incurred of any kind  
14 or character shall not in any event constitute or be deemed  
15 an indebtedness within the meaning of any of the pro-  
16 visions or limitations of the constitution but all such  
17 obligations shall be payable solely and only out of re-  
18 venues derived from the operation of the public service  
19 properties of the district or from proceeds of bonds issued  
20 as hereinafter provided. No continuing contract for the  
21 purchase of materials or supplies or for furnishing the  
22 district with electrical energy or power shall be entered  
23 into for a longer period than fifteen years.

Sec. 8. *Purchase; Eminent Domain; Extra Territorial*

2 *Powers.*—The board is hereby authorized to acquire any  
3 publicly or privately owned public service properties  
4 located within the boundaries of the district regardless

5 of whether or not all or any part of such properties are  
6 located within the corporate limits of any city, incorporat-  
7 ed town or other municipal corporation, included within  
8 the district, and shall have power to purchase and acquire  
9 all rights and franchises and any and all property within  
10 or outside the district necessary or incidental to the pur-  
11 pose of the district.

12 The board shall have power and authority to construct  
13 any public service properties within or outside the district  
14 necessary or incidental to its purposes, and each such dis-  
15 trict is hereby empowered and authorized to acquire, con-  
16 struct, maintain and operate any such public service pro-  
17 perties within the corporate limits of any city, incorpor-  
18 ated town, or other municipal corporation included within  
19 the district or in any unincorporated territory within ten  
20 miles of the territorial boundaries of the district: *Pro-*  
21 *vided, however* That if any incorporated city, town or  
22 other municipal corporation included within the district  
23 shall own and operate either water facilities or sewer  
24 facilities, or both, then the district shall not acquire, con-  
25 struct, establish, improve or extend any public service pro-

26 perties of the same kind within such city, incorporated  
27 towns or other municipal corporations, or the adjacent  
28 unincorporated territory served by such cities, incorpor-  
29 ated towns or other municipal corporations, except upon  
30 the consent of such cities, incorporated towns or other  
31 municipal corporations, and in conformity and compliance  
32 with the rights of the holders of any revenue bonds or  
33 obligations theretofore issued by such cities, incorporated  
34 towns or other municipal corporations then outstanding,  
35 and in accordance with the ordinance, resolution or other  
36 proceedings which authorize the issuance of such revenue  
37 bonds or obligations.

38 Whenever such district shall have constructed, acquired  
39 or established water facilities or sewer facilities for water  
40 or sewer services within any city, incorporatad town or  
41 other municipal corporation included within a district,  
42 then such city, incorporated town or other municipal cor-  
43 poration shall not thereafter construct, acquire or estab-  
44 lish any facilities of the same kind within such city, in-  
45 corporated town or other municipal corporation without  
46 the consent of such district.

47 For the purpose of acquiring any public service pro-  
48 perties or lands, rights or easements deemed necessary  
49 or incidental for the purposes of the district, each such  
50 district shall have the right of eminent domain to the  
51 same extent and to be exercised in the same manner as  
52 now or hereafter provided by law for such right of emi-  
53 nent domain by cities, incorporated towns and other muni-  
54 cipal corporations: *Provided, however,* That such board  
55 shall not acquire all or any substantial part of a privately  
56 owned waterworks system, unless and until authorized so  
57 to do by the public service commission of West Virginia,  
58 and that this section shall not be construed to authorize  
59 any district to acquire through condemnation proceedings  
60 either in whole or substantial part an existing privately  
61 owned waterworks plant or system located in or furnish-  
62 ing water service within such district or extensions made  
63 or to be made by it in territory contiguous to such existing  
64 plant or system, nor shall any such board construct or  
65 extend its public service properties to supply its services  
66 into areas served by or in competition with existing water-  
67 works or extensions made or to be made in territory con-

68 tiguous to such existing plant or system by the owner  
69 thereof.

Sec. 9. *Service Rates and Charges.*—The board shall  
2 have the power to make, enact and enforce all needful  
3 rules and regulations in connection with the acquisition  
4 construction, improvement, extension, management, main-  
5 tenance, operation, care, protection and the use of any  
6 public service properties owned or controlled by the dis-  
7 trict, and it shall be the duty of such board to establish  
8 rates and charges for the services and facilities it furnishes,  
9 which shall be sufficient at all times, notwithstanding the  
10 provisions of any other law or laws, to pay the cost of  
11 maintenance, operation and depreciation of such public  
12 service properties and principal of and interest on all  
13 bonds issued and other obligations incurred under the  
14 provisions of this article and all reserve or other payments  
15 provided for in the proceedings which authorized the  
16 issuance of any bonds hereunder. The schedule of such  
17 rates and charges may be based upon either (a) the con-  
18 sumption of water on premises connected with such faci-  
19 lities, taking into consideration domestic, commercial,

20 industrial and public use of water; or (b) the number  
21 and kind of fixtures connected with such facilities located  
22 on the various premises; or (c) the number of persons  
23 served by such facilities; or (d) any combination thereof;  
24 or (e) may be determined on any other basis or classi-  
25 fication which the board may determine to be fair and  
26 reasonable taking into consideration the location of the  
27 premises served and the nature and extent of the services  
28 and facilities furnished. Where both water and sewer  
29 services are furnished to any premises the schedule of  
30 charges may be billed as a single amount for the aggregate  
31 thereof. Whenever any rates, rentals or charges for ser-  
32 vices or facilities furnished shall remain unpaid for a  
33 period of thirty days after the same shall become due and  
34 payable the property and the owner thereof, as well as the  
35 user of the services and facilities shall be delinquent until  
36 such time as all such rates and charges are fully paid. The  
37 board shall be obligated under reasonable rules and re-  
38 gulations, to shut off and discontinue both water and  
39 sewer services to all delinquent users of either water faci-  
40 lities or sewer facilities, or both, and shall not restore

41 either water facilities or sewer facilities to any delinquent  
42 user of either water facilities or sewer facilities until all  
43 delinquent charges for both water facilities and sewer  
44 facilities, including reasonable interest and penalty  
45 charges, have been paid in full.

46 In the event that any city, incorporated town or other  
47 municipal corporation included within the district shall  
48 own and operate separately either water facilities or sewer  
49 facilities, and the district shall own and operate within  
50 such city, incorporated town or other municipal corpor-  
51 ation the other kind of facilities, either water or sewer  
52 facilities, as the case may be, then the district and such  
53 city, incorporated town or other municipal corporation  
54 shall have power to covenant and contract with each other  
55 to shut off and discontinue, the supplying of the kind of  
56 facilities furnished by the district or such city, incorpor-  
57 ated town or other municipal corporation as the case may  
58 be, for the non-payment of fees and charges for the other  
59 kind of facilities furnished by the district or city, incor-  
60 porated town or other municipal corporation, as the case  
61 may be.



62 Any district furnishing sewer facilities within the dis-  
63 trict shall also have power to require all owners, tenants or  
64 occupants of any houses, buildings or premises abutting  
65 on any such sewer facilities, or which can use such sewer  
66 facilities, to connect with and use such sewer facilities,  
67 and to cease the use of all other means for the collection,  
68 treatment and disposal of sewage and waste matters from  
69 such houses, buildings or premises which can be ade-  
70 quately served by the sewer facilities of the district, and  
71 it is hereby found, determined and declared that the man-  
72 datory use of such sewer facilities provided for in this  
73 paragraph is necessary and essential for the health and  
74 welfare of the inhabitants and residents of such districts  
75 and of the state.

76 All delinquent fees, rates and charges of the district for  
77 either water facilities or sewer facilities shall be liens on  
78 the premises served of equal dignity, rank and priority  
79 with the lien on such premises of state, county, school and  
80 municipal taxes. When such fees, rates and charges have  
81 been delinquent for thirty days, the district shall have  
82 power to forthwith foreclose the lien on the premises

83 served in the same manner now provided in the laws of  
84 the state of West Virginia for the foreclosure of mortgages  
85 on real property.

Sec. 10. *Budget*.—The board shall establish the beginning  
2 and ending of its fiscal year, which period shall constitute  
3 its budget year, and at least thirty days prior to the be-  
4 ginning of the first full fiscal year after the creation of the  
5 district and annually thereafter the general manager  
6 shall prepare and submit to the board a tentative budget  
7 which shall include all operation and maintenance ex-  
8 penses for the ensuing fiscal year. Such tentative budget  
9 shall be considered by the board, and, subject to any re-  
10 visions or amendments that may be determined by said  
11 board, shall be adopted as the budget for the ensuing fiscal  
12 year, and no expenditures for operation and maintenance  
13 expenses in excess of the budget, shall be made during  
14 such fiscal year unless unanimously authorized and di-  
15 rected by the board. It shall not be necessary to include  
16 in such budget any statement of necessary expenditures  
17 for annual interest or principal payments on bonds or for

18 capital outlays, but it shall be the duty of the board to  
19 make provisions for their payment as they become due.

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

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

Sec. 13. *Revenue Bonds.*—For constructing or acquir-

2 ing any public service properties for the authorized pur-  
3 poses of the district, or necessary or incidental thereto, and  
4 for constructing improvements and extensions thereto,  
5 and also for reimbursing or paying the costs and expenses  
6 of creating the district, the board of any such district is  
7 hereby authorized to borrow money from time to time  
8 and in evidence thereof issue the bonds of such district,  
9 payable solely from the revenues derived from the opera-  
10 tion of the public service properties under control of the  
11 district. Such bonds may be issued in one or more series,  
12 may bear such date or dates, may mature at such time or  
13 times not exceeding forty years from their respective  
14 dates, may bear interest at such rate or rates not exceed-  
15 ing five per cent per annum payable semi-annually, may  
16 be in such form, may carry such registration privileges,  
17 may be executed in such manner, may be payable at such  
18 place or places, may be subject to such terms of redemp-  
19 tion with or without premium, may be declared or become  
20 due before maturity date thereof, may be authenticated  
21 in any manner, and upon compliance with such condi-  
22 tions, and may contain such terms and covenants as may

23 be provided by resolution or resolutions of the board. Not-  
24 withstanding the form or tenor thereof, and in the absence  
25 of any express recital on the face thereof, that the bond is  
26 non-negotiable, all such bonds shall be, and shall be treat-  
27 ed as, negotiable instruments for all purposes. Bonds  
28 bearing the signatures of officers in the office on the date  
29 of the signing thereof shall be valid and binding for all  
30 purposes notwithstanding that before the delivery thereof  
31 any or all of the persons whose signature appear thereon  
32 shall have ceased to be such officers. Notwithstanding the  
33 requirements or provisions of any other law, any such  
34 bonds may be negotiated or sold in such manner and at  
35 such time or times as is found by the board to be most  
36 advantageous, and all such bonds may be sold at such  
37 price that the interest cost of the proceeds therefrom does  
38 not exceed six per cent per annum, based on the average  
39 maturity of such bonds and computed according to stand-  
40 ard tables of bond values. Any resolution or resolutions  
41 providing for the issuance of such bonds may contain such  
42 covenants and restrictions upon the issuance of additional  
43 bonds thereafter as may be deemed necessary or advis-

44 able for the assurance of the payment of the bonds thereby  
45 authorized.

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

19 of the things herein required or permitted, in connection  
20 with any thereof.

Sec. 15. *Trust Indenture*.—In the discretion and at the  
2 option of the board such bonds may be secured by a trust  
3 indenture by and between the district and a corporate  
4 trustee, which may be a trust company or bank having  
5 powers of a trust company within or without the state  
6 of West Virginia, but no such trust indenture shall convey,  
7 mortgage or create any lien upon the public service prop-  
8 erties or any part thereof. The resolution authorizing the  
9 bonds and fixing the details thereof may provide that such  
10 trust indenture may contain such provisions for protect-  
11 ing and enforcing the rights and remedies of bondholders  
12 as may be reasonable and proper, not in violation of law,  
13 including covenants setting forth the duties of the district  
14 and the members of its board and officers in relation to  
15 the construction or acquisition of public service properties  
16 and the improvement, extension, operation, repair, main-  
17 tenance and insurance thereof, and the custody, safe-  
18 guarding and application of all moneys, and may provide  
19 that all or any part of the construction work shall be

20 contracted for, constructed and paid for, under the super-  
21 vision and approval of consulting engineers employed or  
22 designated by the board and satisfactory to the original  
23 bond purchasers, their successors, assignees or nominees,  
24 who may be given the right to require the security given  
25 by contractors and by any depository of the proceeds of  
26 bonds or revenues of the public service properties or other  
27 money pertaining thereto be satisfactory to such purchas-  
28 ers, their successors, assignees or nominees. Such inden-  
29 ture may set forth the rights and remedies of the bond-  
30 holders and such trustee.

Sec. 16. *Sinking Fund for Revenue Bonds*.—At or before  
2 the time of the issuance of any bonds under this article  
3 the board shall by resolution or in the trust indenture  
4 provide for the creation of a sinking fund and for monthly  
5 payments into such fund from the revenues of the public  
6 service properties operated by the district such sums in  
7 excess of the cost of maintenance and operation of such  
8 properties as will be sufficient to pay the accruing interest  
9 and retire the bonds at or before the time each will re-  
10 spectively become due and to establish and maintain re-



11 serves therefor. All sums which are or should be, in ac-  
12 cordance with such provisions, paid into such sinking fund  
13 shall be used solely for payment of interest and for the  
14 retirement of such bonds at or prior to maturity as may  
15 be provided or required by such resolutions.

Sec. 17. *Limited Security and Enforcement of Revenue*

2 *Bonds.*—The board of any such district shall have power  
3 to insert enforceable provisions in any resolution author-  
4 izing the issuance of bonds relating to the collection, cus-  
5 tody and application of revenues of the district from the  
6 operation of the public service properties under its con-  
7 trol and to the enforcement of the covenants and under-  
8 takings of the district. In the event there shall be default  
9 in the sinking fund provisions aforesaid or in the payment  
10 of the principal of interest on any of such bonds or, in  
11 the event the district or its board or any of its officers,  
12 agents or employees, shall fail or refuse to comply with  
13 the provisions of this article, or shall default in any cov-  
14 enant or agreement made with respect to the issuance of  
15 such bonds or offered as security therefor, then any holder  
16 or holders of such bonds and any such trustee under the

17 trust indenture, if there be one, shall have the right by  
18 suit, action, mandamus or other proceeding instituted in  
19 the circuit court for the county or any of the counties  
20 wherein the district extends, or in any other court of  
21 competent jurisdiction, to enforce and compel perform-  
22 ance of all duties required by this article or undertaken  
23 by the district in connection with the issuance of such  
24 bonds, and upon application of any such holder or hold-  
25 ers, or such trustee, such court shall, upon proof of such  
26 defaults, appoint a receiver for the affairs of the district  
27 and its properties, which receiver so appointed, shall  
28 forthwith directly, or by his agents and attorneys, enter  
29 into and upon and take possession of the affairs of the  
30 district and each and every part thereof, and hold, use,  
31 operate, manage, and control the same, and in the name  
32 of the district exercise all of the rights and powers of  
33 such district as shall be deemed expedient, and such re-  
34 ceiver shall have power and authority to collect and re-  
35 ceive all revenues and apply same in such manner as the  
36 court shall direct. Whenever the default causing the ap-  
37 pointment of such receiver shall have been cleared and

38 fully discharged and all other defaults shall have been  
39 cured, the court may in its discretion and after such notice  
40 and hearing as it deems reasonable and proper direct the  
41 receiver to surrender possession of the affairs of the dis-  
42 trict to its board. Such receiver so appointed shall have  
43 no power to sell, assign, mortgage, or otherwise dispose  
44 of any assets of the district except as hereinbefore pro-  
45 vided.

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

Sec. 19. *Statutory Mortgage.*—There shall be and is

2 hereby created a statutory mortgage lien upon such public  
3 service properties of the district, which shall exist in  
4 favor of the holders of bonds hereby authorized to be  
5 issued, and each of them, and the coupons attached to  
6 said bonds, and such public service properties shall re-  
7 main subject to such statutory mortgage lien until pay-  
8 ment in full of all principal of and interest on such bonds.  
9 Any holder of such bonds, of any coupons attached there-  
10 to, may, either at law or in equity, enforce said statutory  
11 mortgage lien conferred hereby and upon default in the  
12 payment of the principal of or interest on said bonds, may  
13 foreclose such statutory mortgage lien in the manner now  
14 provided by the laws of the state of West Virginia for the  
15 foreclosure of mortgages on real property.

Sec. 20. *Refunding Revenue Bonds.*—The board of any  
2 district having issued bonds under the provisions of this  
3 article is hereby empowered thereafter by resolution to  
4 issue refunding bonds of such district for the purpose of  
5 retiring or refinancing such outstanding bonds, together  
6 with any unpaid interest thereon and redemption pre-  
7 mium thereunto appertaining and all of the provisions

8 of this article relating to the issuance, security and pay-  
9 ment of bonds shall be applicable to such refunding bonds,  
10 subject, however, to the provisions of the proceedings  
11 which authorized the issuance of the bonds to be so re-  
12 funded.

Sec. 21. *Law Complete and to Be Liberally Con-*  
2 *strued.*—This article shall constitute full and complete  
3 authority for the creation of public service districts and  
4 for carrying out the powers and duties of same as herein  
5 provided. The provisions of this article shall be liberally  
6 construed to accomplish its purpose and no procedure or  
7 proceedings, notices, consents or approvals, shall be re-  
8 quired in connection therewith except as may be pre-  
9 scribed by this article: *Provided*, That all functions,  
10 powers and duties of the public service commission of  
11 West Virginia, the state department of health and the state  
12 water commission shall remain unaffected by this article.  
13 Every district organized under this article is declared  
14 to be a public instrumentality created and functioning  
15 in the interest and for the benefit of the public, and its  
16 property and income and any bonds issued by it shall be

17 exempt from taxation by the state of West Virginia, and  
 18 the other taxing bodies of the state: *Provided, however,*  
 19 That the board of any such district may use and apply  
 20 any of its available revenues and income for the payment  
 21 of what such board determines to be tax or license fee  
 22 equivalents to any local taxing body and in any proceed-  
 23 ings for the issuance of bonds of such district may reserve  
 24 the right to annually pay a fixed or computable sum to  
 25 such taxing bodies as such tax or license fee equivalent.

MAR 20 1953

D. ELLIOTT

STATE OF WEST VIRGINIA

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

W. M. Kinley  
Chairman Senate Committee

C. H. Hamblen  
Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

Howard Meyer  
Clerk of the Senate

Stalliff  
Clerk of the House of Delegates

Ralph Bean  
President of the Senate

W. E. Hannery  
Speaker House of Delegates

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

William C. Mather  
Governor



FILED IN THE OFFICE OF THE SECRETARY OF STATE  
OF VIRGINIA

MAR 20 1953

D. PITT O'BRIEN,  
SECRETARY OF STATE