WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 224

(By Mr. Brewer)

PASSED 3 MAR 1955

In Effect 90 Days from Passage

Filed in the Office of the Secretary of State
MAR 9 1955
of West Virginia
D. PITI O'BRIEN
SECRETARY OF STATE
ENROLLED

House Bill No. 224
(By Mr. Burke)

[Passed March 3, 1955; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and three, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended, and to further amend said chapter twenty-six by adding thereto three new sections, to be designated sections nine-a, nine-b and nine-c, all relating to municipal waterworks systems, so as to provide for the acquisition, construction, extension and improvement of municipal waterworks systems and the issuance of revenue bonds in connection therewith and providing for the rights and remedies of the holders of said bonds.

Be it enacted by the Legislature of West Virginia:

That sections one and three, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended, be amended
and reenacted, and that said chapter twenty-six be further amended by adding thereto three new sections, to be designated sections nine-a, nine-b and nine-c, all to read as follows:

Section 1. Acquisition and Operation of Municipal Waterworks; Extension Beyond Corporate Limits.—Subject to, and in accordance with the provisions of this article, any municipal corporation in the state of West Virginia may purchase, construct, extend and operate, or lease to others for operation, a waterworks system, or construct and operate additions, betterments, and improvements to an existing waterworks system, within the corporate limits of said municipality and within the area extending twenty miles beyond the corporate limits of such municipality, notwithstanding any provision or limitation to the contrary in any other general law or municipal charter: Provided, however, That such municipality shall not serve or supply water facilities or services within the corporate limits of any other municipality without the consent of the governing body thereof.

Sec. 3. Estimate of Cost and Ordinance for Issuance of Revenue Bonds; Interest, Etc.—Whenever the munici-
pality shall determine to acquire (by purchase or otherwise), improve or construct a waterworks system under the provisions of this article, it shall cause an estimate to be made of the cost thereof, and shall, by ordinance, provide for the issuance of revenue bonds under the provisions of this article, which ordinance shall set forth a brief description of the contemplated improvement, the estimated cost thereof, the amount, rate or rates of interest, time and place of payment, and other details in connection with the issuance of the bonds. Such bonds shall be in such form and shall be negotiated in such manner and upon such terms as the governing body of such municipality may by ordinance specify. All such bonds and the interest thereon, and all properties and revenues and income derived from such waterworks system, shall be exempt from all taxation by the state of West Virginia, or any county, municipality, political subdivision or agency thereof. Such bonds shall bear interest at not more than six per centum per annum, payable semiannually, and shall be payable at such times, not exceeding forty years from their date. and at
such place or places, within or without the state, as shall be prescribed in the ordinance providing for their issuance. Such ordinance shall also declare that a statutory mortgage lien shall exist upon the property so to be acquired, improved or constructed, fix a minimum rate or rates for water to be collected prior to the payment of all of said bonds and shall pledge the revenues derived from the waterworks system for the purpose of paying such bonds and interest thereon, which pledge shall definitely fix and determine the amount of revenues which shall be necessary to be set apart and applied to the payment of the principal of, and interest on the bonds and the proportion of the balance of such revenues and income which are to be set aside as a proper and adequate depreciation account, and the remainder shall be set aside for the reasonable and proper operation thereof. The rates to be charged for the services from such waterworks shall be sufficient at all times to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same become due, and reasonable reserves therefor, and
to provide for the operation and maintenance of the sys-
tem, and to provide an adequate depreciation fund, and
to make any other payments which shall be required or
provided for in the ordinance authorizing the issuance of
said bonds.

Sec. 9-a. Discontinuance of Water Service.—Any such
municipality shall also have power, and may covenant
with the holders of any bonds issued hereunder, to shut
off and discontinue the supplying of water services of
said waterworks system for the nonpayment of charges
for said water services.

Sec. 9-b. Operating Contract.—Any such municipality
may enter into contracts or agreements with any persons,
firms or corporations for the operation and management
of the facilities and properties of said waterworks system,
or any part thereof, for such period of time and under
such terms and conditions as shall be agreed upon be-
tween such municipality and such persons, firms or cor-
porations. Such municipality shall have power to provide
in the resolution authorizing the issuance of bonds here-
under, or in any trust indenture, securing such bonds,
that such contracts or agreements shall be valid and
binding upon the municipality as long as any of said
bonds, or interest thereon, are outstanding and unpaid.

Sec. 9-c. Covenants With Bond Holders.—Any reso-
lution authorizing the issuance of bonds hereunder, or
any trust indenture with any bank or trust company,
within or without the state, for the security of said bonds,
which any such municipality is hereby authorized to
enter into and execute, may contain covenants with the
holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of
sale of such bonds, or the revenues derived from said
waterworks system may be applied and the securing, use
and disposition thereof, including, if deemed desirable,
the appointment of a trustee or depositary for any of such
funds;

(b) The pledging of all or any part of the revenues
derived from the ownership, operation or control of such
waterworks systems, including any part thereof hereto-
fore or hereafter constructed or acquired or derived from
any other sources, to the payment of the principal of or
interest thereon of bonds issued hereunder and for such
reserve or other funds as may be deemed necessary or
desirable;
(c) The fixing, establishing and collecting of such fees,
rentals or other charge for the use of the services and
facilities of the waterworks system, including the parts
thereof heretofore or hereafter constructed or acquired
and the revision of same from time to time, as will always
provide revenues at least sufficient to provide for all
expenses of operation, maintenance and repair of such
waterworks system, the payment of the principal of and
interest on all bonds or other obligations payable from
the revenues of such waterworks system, and all reserve
and other funds required by the terms of the ordinance
authorizing the issuance of such bonds;
(d) The transfer from the general funds of the munici-
pality to the account or accounts of the waterworks sys-
tem of an amount equal to the cost of furnishing the
municipality or any of its departments, boards or agencies
with the services and facilities of such waterworks
systems;
(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenues of such waterworks system, and the rank or priority, as to lien and source and security for payment from the revenues of such waterworks system, between bonds payable from such revenues;

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the performance of any covenant or agreement with bondholders, and the manner and terms upon which such defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

(g) Budgets for the annual operation, maintenance and repair of such waterworks system and restrictions and limitations upon expenditures for such purposes, and the manner of adoption, modification, repeal or amendment thereof, including the approval of such budgets by
consulting engineers designated by holders of bonds issued hereunder;

(h) The amounts of insurance to be maintained upon such waterworks system, or any part thereof, and the use and disposition of the proceeds of any insurance;

(i) The keeping of books of account, relating to such undertakings and the audit and inspection thereof, and the furnishing to the holders of bonds issued hereunder or their representatives, reports prepared, certified, or approved by accountants designated or approved by the holders of bonds issued hereunder;

(j) Such other additional covenants as shall be deemed necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that such other covenants are not expressly enumerated hereunder, it being the intention hereof to grant to such municipalities the power to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facili-
ties and to grant such municipalities such full and complete power to enter into any contracts, covenants or agreements with holders of bonds issued hereunder not inconsistent with the constitution of the state of West Virginia.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 8th day of March, 1955.

Governor

Filed in the Office of the Secretary of State of West Virginia.

Secretary of State