

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955



ENROLLED

HOUSE BILL No. 224

(By Mr. Bowles)



PASSED Mar 3 1955

In Effect 90 Days from Passage



Filed in the Office of the Secretary of State
of West Virginia MAR 9 1955
D. PITT 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*
2 *Waterworks; Extension Beyond Corporate Limits.*—Sub-
3 ject to, and in accordance with the provisions of this
4 article, any municipal corporation in the state of West
5 Virginia may purchase, construct, extend and operate, or
6 lease to others for operation, a waterworks system, or
7 construct and operate additions, betterments, and im-
8 provements to an existing waterworks system, within the
9 corporate limits of said municipality and within the area
10 extending twenty miles beyond the corporate limits of
11 such municipality, notwithstanding any provision or
12 limitation to the contrary in any other general law or
13 municipal charter: *Provided, however,* That such munici-
14 pality shall not serve or supply water facilities or services
15 within the corporate limits of any other municipality
16 without the consent of the governing body thereof.

Sec. 3. *Estimate of Cost and Ordinance for Issuance of*
2 *Revenue Bonds; Interest, Etc.*—Whenever the munici-

3 pality shall determine to acquire (by purchase or other-
4 wise), improve or construct a waterworks system under
5 the provisions of this article, it shall cause an estimate
6 to be made of the cost thereof, and shall, by ordinance,
7 provide for the issuance of revenue bonds under the
8 provisions of this article, which ordinance shall set forth
9 a brief description of the contemplated improvement, the
10 estimated cost thereof, the amount, rate or rates of
11 interest, time and place of payment, and other details in
12 connection with the issuance of the bonds. Such bonds
13 shall be in such form and shall be negotiated in such
14 manner and upon such terms as the governing body of
15 such municipality may by ordinance specify. All such
16 bonds and the interest thereon, and all properties and
17 revenues and income derived from such waterworks
18 system, shall be exempt from all taxation by the state
19 of West Virginia, or any county, municipality, political
20 subdivision or agency thereof. Such bonds shall bear
21 interest at not more than six per centum per annum,
22 payable semiannually, and shall be payable at such
23 times, not exceeding forty years from their date. and at

24 such place or places, within or without the state, as shall
25 be prescribed in the ordinance providing for their issu-
26 ance. Such ordinance shall also declare that a statutory
27 mortgage lien shall exist upon the property so to be
28 acquired, improved or constructed, fix a minimum rate
29 or rates for water to be collected prior to the payment of
30 all of said bonds and shall pledge the revenues derived
31 from the waterworks system for the purpose of paying
32 such bonds and interest thereon, which pledge shall
33 definitely fix and determine the amount of revenues which
34 shall be necessary to be set apart and applied to the pay-
35 ment of the principal of, and interest on the bonds and
36 the proportion of the balance of such revenues and in-
37 come which are to be set aside as a proper and adequate
38 depreciation account, and the remainder shall be set
39 aside for the reasonable and proper operation thereof.
40 The rates to be charged for the services from such water-
41 works shall be sufficient at all times to provide for the
42 payment of interest upon all bonds and to create a sink-
43 ing fund to pay the principal thereof as and when the
44 same become due, and reasonable reserves therefor, and

45 to provide for the operation and maintenance of the sys-
46 tem, and to provide an adequate depreciation fund, and
47 to make any other payments which shall be required or
48 provided for in the ordinance authorizing the issuance of
49 said bonds.

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

Sec. 9-b. *Operating Contract.*—Any such municipality
2 may enter into contracts or agreements with any persons,
3 firms or corporations for the operation and management
4 of the facilities and properties of said waterworks system,
5 or any part thereof, for such period of time and under
6 such terms and conditions as shall be agreed upon be-
7 tween such municipality and such persons, firms or cor-
8 porations. Such municipality shall have power to provide
9 in the resolution authorizing the issuance of bonds here-
10 under, or in any trust indenture, securing such bonds,

11 that such contracts or agreements shall be valid and
12 binding upon the municipality as long as any of said
13 bonds, or interest thereon, are outstanding and unpaid.

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

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

14 (b) The pledging of all or any part of the revenues
15 derived from the ownership, operation or control of such
16 waterworks systems, including any part thereof hereto-
17 fore or hereafter constructed or acquired or derived from
18 any other sources, to the payment of the principal of or

19 interest thereon of bonds issued hereunder and for such
20 reserve or other funds as may be deemed necessary or
21 desirable;

22 (c) The fixing, establishing and collecting of such fees,
23 rentals or other charge for the use of the services and
24 facilities of the waterworks system, including the parts
25 thereof heretofore or hereafter constructed or acquired
26 and the revision of same from time to time, as will always
27 provide revenues at least sufficient to provide for all
28 expenses of operation, maintenance and repair of such
29 waterworks system, the payment of the principal of and
30 interest on all bonds or other obligations payable from
31 the revenues of such waterworks system, and all reserve
32 and other funds required by the terms of the ordinance
33 authorizing the issuance of such bonds;

34 (d) The transfer from the general funds of the munici-
35 pality to the account or accounts of the waterworks sys-
36 tem of an amount equal to the cost of furnishing the
37 municipality or any of its departments, boards or agencies
38 with the services and facilities of such waterworks
39 systems;

40 (e) Limitations or restrictions upon the issuance of
41 additional bonds or other obligations payable from the
42 revenues of such waterworks system, and the rank or
43 priority, as to lien and source and security for payment
44 from the revenues of such waterworks system, between
45 bonds payable from such revenues;

46 (f) The manner and terms upon which all bonds and
47 other obligations issued hereunder may be declared im-
48 mediately due and payable upon the happening of a
49 default in the payment of the principal of or interest
50 thereon, or in the performance of any covenant or agree-
51 ment with bondholders, and the manner and terms upon
52 which such defaults may be declared cured and the ac-
53 celeration of the maturity of such bonds rescinded and
54 repealed;

55 (g) Budgets for the annual operation, maintenance
56 and repair of such waterworks system and restrictions
57 and limitations upon expenditures for such purposes, and
58 the manner of adoption, modification, repeal or amend-
59 ment thereof, including the approval of such budgets by

60 consulting engineers designated by holders of bonds
61 issued hereunder;

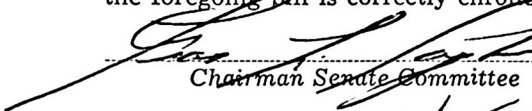
62 (h) The amounts of insurance to be maintained upon
63 such waterworks system, or any part thereof, and the
64 use and disposition of the proceeds of any insurance;


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

71 (j) Such other additional covenants as shall be deemed
72 necessary or desirable for the security of the holders of
73 bonds issued hereunder, notwithstanding that such other
74 covenants are not expressly enumerated hereunder, it
75 being the intention hereof to grant to such municipalities
76 the power to make any and all covenants or agreements
77 necessary in order to secure greater marketability for
78 bonds issued hereunder as fully and to the same extent
79 as such covenants or agreements could be made by a
80 private corporation rendering similar services and facili-

81 ties and to grant such municipalities such full and com-
82 plete power to enter into any contracts, covenants or
83 agreements with holders of bonds issued hereunder not
84 inconsistent with the constitution of the state of West
85 Virginia.

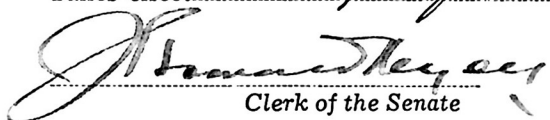
The Joint Committee on Enrolled Bills hereby certifies that the foregoing Bill is correctly enrolled.



Chairman Senate Committee

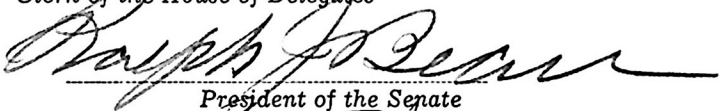

Chairman House Committee

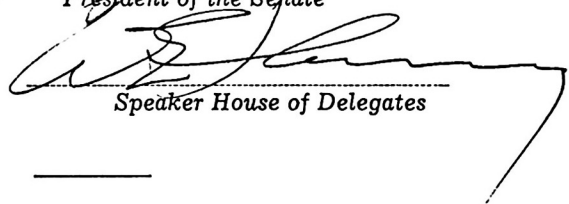
Originated in the House of Delegates

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 8
day of March, 1955.


Governor

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of West Virginia MAR 9 1955

D. PITT O'BRIEN
SECRETARY OF STATE