WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 438

(By Mr. Smith)

PASSED Mar 8 1955

In Effect Passage

Filed in the Office of the Secretary of State
Of West Virginia
D. Pitt O'Brien
Secretary of State
AN ACT to amend article thirteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section twenty-three-a, relating to municipal sewerage systems, so as to provide for the acquisition, construction and operation of municipal sewerage systems by an alternative method of financing.

Be it enacted by the Legislature of West Virginia:

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

Section 23-a. Acquisition, Operation, Etc.; Alternative
Method of Finance.—Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the state water commission requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates or charges for the use of the services and facilities of the existing sewer system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system, or that in any way uses or is served thereby, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the
collection and/or treatment, purification and disposal
of sewage, and the repair, alteration and extension of
e existing sewer facilities, as may be necessary to comply
with such order of the state water commission, and for the
operation, maintenance and repair of the entire works
and system; and the governing body shall create, by
ordinance, a sinking fund to accumulate and hold any
part or all of the proceeds derived from rates or
charges until completion of said construction, to be
remitted to and administered by the state sinking fund
commission by expending and paying said costs and
expenses of construction and operation in the manner
as provided by said ordinance; and after the com-
pletion of the construction such rates or charges shall
be sufficient in each year for the payment of the proper
and reasonable costs and expenses of operation, main-
tenance, repair replacement, and extension from time to
time, of the entire sewer and works. No such rates
or charges shall be established until after a public hear-
ing, at which all the potential users of the works and
owners of property served or to be served thereby and
others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication once each week for two consecutive weeks in two newspapers of opposite political faith published and having general circulation in such municipality, or in one newspaper, if only one political faith is represented by newspapers in the said municipality, the first publication of which notice shall be at least ten days before the date fixed therein for the hearing, and if there be no newspaper published in said municipality, then notice shall be given by posting a copy of the same in each of at least ten conspicuous places in the municipality at least ten days before said hearing date. After such hearing, which may be adjourned from time to time, the ordinance establishing the rates or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of such
rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, however, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. If any rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten per cent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the
powers given herein shall have authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery or works necessary to comply with such order of the state water commission, and the authority provided herein to establish, maintain and collect rates or charges shall be construed as a further additional and alternative method of financing such works and matters, and shall be independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds: Provided, however, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the state water commission, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, shall be governed by the provisions of this article.
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 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 16

day of March 1953.

William O. Marland
Governor

Filed in the Office of the Secretary of State of West Virginia, MAR 17, 1953

D. Pitt O'Brien
Secretary of State