

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955



ENROLLED

HOUSE BILL No. 438

(By Mr. Smith)



PASSED Mar 8 1955

In Effect for Passage



Filed in the Office of the Secretary of State
Of West Virginia MAR 17 1955
D. PITT O'BRIEN
SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE FOR
House Bill No. 438

(Originating in the Committee on the Judiciary)

[Passed March 8, 1955; in effect from passage.]

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*

2 *Method of Finance.*—Notwithstanding any other pro-
3 vision contained in this article, and in addition thereto,
4 the governing body of any municipal corporation which
5 has received or which hereafter receives an order is-
6 sued by the state water commission requiring such mu-
7 nicipal corporation to cease the pollution of any stream
8 or waters, is hereby authorized and empowered to fix,
9 establish and maintain, by ordinance, just and equitable
10 rates or charges for the use of the services and facilities
11 of the existing sewer system of such municipal corpora-
12 tion, and/or for the use of the services and facilities to
13 be rendered upon completion of any works and system
14 necessary by virtue of said order, to be paid by the owner,
15 tenant or occupant of each and every lot or parcel of
16 real estate or building that is connected with and uses
17 any part of such sewer system, or that in any way uses or
18 is served thereby, and may change and readjust such
19 rates or charges from time to time. Such rates or charges
20 shall be sufficient for the payment of all the proper and
21 reasonable costs and expenses of the acquisition and
22 construction of plants, machinery and works for the

23 collection and/or treatment, purification and disposal
24 of sewage, and the repair, alteration and extension of
25 existing sewer facilities, as may be necessary to comply
26 with such order of the state water commission, and for the
27 operation, maintenance and repair of the entire works
28 and system; and the governing body shall create, by
29 ordinance, a sinking fund to accumulate and hold any
30 part or all of the proceeds derived from rates or
31 charges until completion of said construction, to be
32 remitted to and administered by the state sinking fund
33 commission by expending and paying said costs and
34 expenses of construction and operation in the manner
35 as provided by said ordinance; and after the com-
36 pletion of the construction such rates or charges shall
37 be sufficient in each year for the payment of the proper
38 and reasonable costs and expenses of operation, main-
39 tenance, repair replacement, and extension from time to
40 time, of the entire sewer and works. No such rates
41 or charges shall be established until after a public hear-
42 ing, at which all the potential users of the works and
43 owners of property served or to be served thereby and

44 others interested shall have an opportunity to be heard
45 concerning the proposed rates or charges. After intro-
46 duction of the ordinance fixing such rates or charges,
47 and before the same is finally enacted, notice of such
48 hearing, setting forth the proposed schedule of such
49 rates or charges, shall be given by publication once
50 each week for two consecutive weeks in two newspa-
51 pers of opposite political faith published and having
52 general circulation in such municipality, or in one news-
53 paper, if only one political faith is represented by news-
54 papers in the said municipality, the first publication of
55 which notice shall be at least ten days before the date
56 fixed therein for the hearing, and if there be no news-
57 paper published in said municipality, then notice shall
58 be given by posting a copy of the same in each of at
59 least ten conspicuous places in the municipality at least
60 ten days before said hearing date. After such hearing,
61 which may be adjourned from time to time, the ordi-
62 nance establishing the rates or charges, either as origin-
63 ally introduced or as modified and amended, may be
64 passed and put into effect. A copy of the schedule of such

65 rates and charges so established shall be kept on file
66 in the office of the sanitary board having charge of the
67 construction and operation of such works, and also in
68 the office of the clerk of the municipality, and shall
69 be open to inspection by all parties interested. The rates
70 or charges so established for any class of users or prop-
71 erty served shall be extended to cover any additional
72 premises thereafter served which fall within the same
73 class, without the necessity of any hearing or notice.
74 Any change or readjustment of such rates or charges
75 may be made in the same manner as such rates or charges
76 were originally established as hereinbefore provided: *Pro-*
77 *vided, however,* That if such change or readjustment be
78 made substantially pro rata, as to all classes of service,
79 no hearing or notice shall be required. If any rate or
80 charge so established shall not be paid within thirty
81 days after the same is due, the amount thereof, together
82 with a penalty of ten per cent, and a reasonable attorney's
83 fee, may be recovered by the sanitary board of such mu-
84 nicipal corporation in a civil action in the name of the
85 municipality. Any municipal corporation exercising the

86 powers given herein shall have authority to construct,
87 acquire, improve, equip, operate, repair and maintain
88 any plants, machinery or works necessary to comply
89 with such order of the state water commission, and the
90 authority provided herein to establish, maintain and col-
91 lect rates or charges shall be construed as a further ad-
92 ditional and alternative method of financing such works
93 and matters, and shall be independent of any other pro-
94 vision of this article insofar as such article provides for
95 or requires the issuance of revenue bonds or the im-
96 position of rates and charges in connection with such
97 bonds: *Provided, however,* That except for the method
98 of financing such works and matters, the construction,
99 acquisition, improvement, equipment, custody, operation,
100 repair and maintenance of any plants, machinery or
101 works in compliance with an order of the state water
102 commission, and the rights, powers, and duties of such
103 municipal corporation and the respective officers and de-
104 partments thereof, including the sanitary board, shall be
105 governed by the provisions of this article.

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 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 16
day of March 1953.

[Signature]
Governor



Filed in the Office of the Secretary of State
of West Virginia **MAR 17 1953**
D. PITT O'BRIEN
SECRETARY OF STATE