ENROLLED

House Bill No. 821
(By Mr. Speaker, Mr. White, and Mr. Cann)

[Passed March 13, 1965; in effect from passage.]

AN ACT to amend and reenact sections two, seven and sixteen, article two-a, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions, the sale or exchange and the authority for refunding revenue bonds.

Be it enacted by the Legislature of West Virginia:

That sections two, seven and sixteen, article two-a, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2-a. Revenue Bond Refinancing.

Section 2. Definitions.—The following terms wherever
used or referred to in this article shall have the following meaning, unless a different meaning plainly appears from the context:

The term "public body" shall mean any city, town, county, public service district, sanitary district or the state of West Virginia acting through any of its agencies, boards, commissions or departments having power to issue revenue obligations.

The term "governing body" shall mean board, council or other body having power to borrow money on behalf of a public body.

The term "law" shall mean any act or statute, general, special or local, of this state, including, without being limited to, the charter of any public body.

The term "enterprise" shall mean any work, undertaking, or project which the public body is or may hereafter be authorized to construct and from which the public body has heretofore derived or may hereafter derive revenues, for the refinancing, or the refinancing and improving of which enterprise, refunding bonds are issued under this article, and such enterprise shall include all
improvements, betterments, extensions and replacements there to, and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith or incidental thereto.

The term “federal agency” shall include the United States of America, the president of the United States of America, the federal emergency administrator of public works, reconstruction finance corporation, or any agency, instrumentality or corporation of the United States of America, which has heretofore been or may hereafter be designated or created by or pursuant to any act or acts or joint resolution or joint resolutions of the Congress of the United States of America, or which may be owned or controlled, directly or indirectly, by the United States of America.

The term “improving” shall mean reconstructing, replacing, extending, repairing, bettering, equipping, developing, embellishing or improving; or any one or more, or all of the foregoing.

The term “refunding bonds” shall mean notes, bonds, certificates or other obligations of a public body issued
pursuant to this article, or pursuant to any other law, as
supplemented by, or in conjunction with this article.

The term "refinancing" shall mean funding, refunding,
paying or discharging, by means of refunding bonds or
the proceeds received from the sale thereof, all or any
part of any notes, bonds, or other obligations heretofore
or hereafter issued to finance or to aid in financing the
acquisition, construction or improving of an enterprise
and payable solely from all or any part of the revenues
thereof, including interest thereon in arrears, the re-
demption premiums, if any, payable on the redemption
of such notes, bonds or other obligations, the interest to
accrue thereon to the payment or redemption date,
whether or not such interest is represented by coupons
or interest certificates, and the costs of issuance of the
refunding bonds.

The term "revenues" shall mean all fees, tolls, rates,
rentals and charges to be levied and collected in connec-
tion with and all other income and receipts of whatever
kind or character derived by the public body from the
operation of any enterprise or arising from any enter-
prise.
prise, and including earnings derived from investments and bank deposits.

The term "holder of bonds" or "bondholder" or any similar term shall mean any person who shall be the bearer of any outstanding refunding bond or refunding bonds registered to bearer or not registered, or the registered owner of any such outstanding bond or bonds which shall at the time be registered other than to bearer.

Words importing the singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Sec. 7. Sale or Exchange.—The refunding bonds may be sold or exchanged in installments at different times, or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in part in installments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, certificates or other obligations to be refinanced thereby.

If the governing body determines to exchange any re-
funding bonds, such refunding bonds may be exchanged privately for and in payment and discharge of any of the outstanding notes, bonds or other obligations of the public body issued to finance or to aid in financing the acquisition, the construction, the improving, the refinancing, or the improving and refinancing, of an enterprise. The refunding bonds may be exchanged for a like or greater principal amount of such notes, bonds or other obligations of the public body, except that the principal amount of the refunding bonds may exceed the principal amount of such outstanding notes, bonds, or other obligations to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds, or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if, and to the extent that interest is due or accrued and unpaid on such outstanding notes, bonds, or other obligations to be surrendered.

If the governing body determines to sell any refunding bonds, such refunding bonds shall be sold at public sale,
after advertisement in Bond Buyers Guide, or the Wall
Street Journal, once a week for two weeks prior to date
of sale, as the governing body shall deem best for the in-
terests of the public body. Such refunding bonds may be
sold in any aggregate principal sum including the prin-
cipal amount outstanding of the revenue obligations of the
public body being refinanced, interest in arrears and in-
terest accrued and to accrue on such revenue obligations
until payment or redemption thereof, any redemption
premiums applicable to such revenue obligations, any
costs of improving the enterprise, the revenues of which
were pledged to the payment of such revenue obligations,
and of acquiring, constructing and improving any other
enterprise and the costs of issuing such refunding bonds.
The proceeds of sale of the refinancing portion of a re-
funding bond issue shall be deposited irrevocably in
trust for the purchase, redemption prior to maturity or
payment at maturity of the revenue obligations being
refinanced, such purchase to be at a price not exceeding
the par value of such revenue obligations plus accrued
interest at the time of such purchase. Such proceeds
while so deposited in trust shall be invested in direct
obligations of the United States of America or placed in
time deposits secured by direct obligations of the United
States of America, and maturing at such times and in
such amounts as shall be necessary to meet payments of
principal and interest on such revenue obligations being
refinanced or to redeem the same prior to the maturities
thereof. Such investments may be sold at not less than
the amount paid therefor, and such deposits may be with-
drawn, to the extent necessary to provide moneys for
the purchase of any of such revenue obligations. Earn-
ings from such investments shall, as received, be trans-
ferred to and deposited in the sinking fund reserve or
the bond and interest sinking fund established for pay-
ment of the refunding bonds.

Sec. 16. Article Complete Authority for Refunding

Bonds.—This article constitutes full and complete au-
thority for the issuance of refunding bonds. No proce-
dure or proceedings, publications, notices, consents, ap-
provals, orders, acts or things by any governing body of
any public body, or any board, officer, commission, de-
partment, agency, or instrumentality of the state or any public body shall be required to issue any refunding bonds or to do any act or perform any thing under this article, except as may be prescribed in this article. The powers conferred by this article shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this article shall not affect the powers conferred by any other law: Provided, however, That the principal amount of bonds authorized by this article for refunding or refinancing shall be deemed to apply to the principal amount of refunding bonds authorized by all other laws providing for the issuance and refunding of revenue bonds by public bodies, and the sale thereof, notwithstanding any contrary provisions of such other laws. This article is remedial in nature and shall be liberally construed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O. Ray Parker
Chairman Senate Committee

James W. Loep
Chairman House Committee

Originated in the House.

Takes effect from passage.

D. Howard Hughes
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard E. Cook
President of the Senate

H. Leman Edile
Speaker House of Delegates

The within _______ approved this the ______ day of ________, 1965.

Kleett E. Smith
Governor