

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965



ENROLLED

HOUSE BILL No. 821

(By Mr. Speaker, Mr. White, & Mr. Cannon)



PASSED March 13, 1965

In Effect from Passage

821



FILED IN THE OFFICE OF
JOE P. BOGOTY
SECRETARY OF STATE
MAR 19 3-19-65

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(By MR. SPEAKER, MR. WHITE, and MR. CANN)

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

AN ACT to amend and reenact section ~~two~~[§], 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

2 used or referred to in this article shall have the following
3 meaning, unless a different meaning plainly appears from
4 the context:

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

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

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

16 The term "enterprise" shall mean any work, under-
17 taking, or project which the public body is or may here-
18 after be authorized to construct and from which the pub-
19 lic body has heretofore derived or may hereafter derive
20 revenues, for the refinancing, or the refinancing and im-
21 proving of which enterprise, refunding bonds are issued
22 under this article, and such enterprise shall include all

23 improvements, betterments, extensions and replacements
24 thereto, and all appurtenances, facilities, lands, rights in
25 land, water rights, franchises, and structures in connec-
26 tion therewith or incidental thereto.

27 The term "federal agency" shall include the United
28 States of America, the president of the United States of
29 America, the federal emergency administrator of public
30 works, reconstruction finance corporation, or any agency,
31 instrumentality or corporation of the United States of
32 America, which has heretofore been or may hereafter
33 be designated or created by or pursuant to any act or acts
34 or joint resolution or joint resolutions of the Congress of
35 the United States of America, or which may be owned
36 or controlled, directly or indirectly, by the United States
37 **of America.**

38 The term "improving" shall mean reconstructing, re-
39 placing, extending, repairing, bettering, equipping, de-
40 veloping, embellishing or improving; or any one or more,
41 or all of the foregoing.

42 The term "refunding bonds" shall mean notes, bonds,
43 certificates or other obligations of a public body issued

44 pursuant to this article, or pursuant to any other law, as
45 supplemented by, or in conjunction with this article.

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

60 The term "revenues" shall mean all fees, tolls, rates,
61 rentals and charges to be levied and collected in connec-
62 tion with and all other income and receipts of whatever
63 kind or character derived by the public body from the
64 operation of any enterprise or arising from any enter-

65 prise, and including earnings derived from investments
66 and bank deposits.

67 The term "holder of bonds" or "bondholder" or any
68 similar term shall mean any person who shall be the
69 bearer of any outstanding refunding bond or refunding
70 bonds registered to bearer or not registered, or the reg-
71 istered owner of any such outstanding bond or bonds
72 which shall at the time be registered other than to bearer.

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

Sec. 7. Sale or Exchange.—The refunding bonds may
2 be sold or exchanged in installments at different times,
3 or an entire issue or series may be sold or exchanged at
4 one time. Any issue or series of refunding bonds may
5 be exchanged in part or sold in part in installments at
6 different times or at one time. The refunding bonds may
7 be sold or exchanged at any time on, before, or after the
8 maturity of any of the outstanding notes, bonds, certifi-
9 cates or other obligations to be refinanced thereby.
10 If the governing body determines to exchange any re-

11 funding bonds, such refunding bonds may be exchanged
12 privately for and in payment and discharge of any of the
13 outstanding notes, bonds or other obligations of the pub-
14 lic body issued to finance or to aid in financing the ac-
15 quisition, the construction, the improving, the refinancing,
16 or the improving and refinancing, of an enterprise. The
17 refunding bonds may be exchanged for a like or greater
18 principal amount of such notes, bonds or other obliga-
19 tions of the public body, except that the principal amount
20 of the refunding bonds may exceed the principal amount
21 of such outstanding notes, bonds, or other obligations
22 to the extent necessary or advisable, in the discretion of
23 the governing body, to fund interest in arrears or about
24 to become due. The holder or holders of such outstanding
25 notes, bonds, or other obligations need not pay accrued
26 interest on the refunding bonds to be delivered in ex-
27 change therefor if, and to the extent that interest is due
28 or accrued and unpaid on such outstanding notes, bonds,
29 or other obligations to be surrendered.

30 If the governing body determines to sell any refunding
31 bonds, such refunding bonds shall be sold at public sale,

32 after advertisement in Bond Buyers Guide, or the Wall
33 Street Journal, once a week for two weeks prior to date
34 of sale, as the governing body shall deem best for the in-
35 terests of the public body. Such refunding bonds may be
36 sold in any aggregate principal sum including the princi-
37 pal amount outstanding of the revenue obligations of the
38 public body being refinanced, interest in arrears and in-
39 terest accrued and to accrue on such revenue obligations
40 until payment or redemption thereof, any redemption
41 premiums applicable to such revenue obligations, any
42 costs of improving the enterprise, the revenues of which
43 were pledged to the payment of such revenue obligations,
44 and of acquiring, constructing and improving any other
45 enterprise and the costs of issuing such refunding bonds.
46 The proceeds of sale of the refinancing portion of a re-
47 funding bond issue shall be deposited irrevocably in
48 trust for the purchase, redemption prior to maturity or
49 payment at maturity of the revenue obligations being
50 refinanced, such purchase to be at a price not exceeding
51 the par value of such revenue obligations plus accrued
52 interest at the time of such purchase. Such proceeds

53 while so deposited in trust shall be invested in direct
54 obligations of the United States of America or placed in
55 time deposits secured by direct obligations of the United
56 States of America, and maturing at such times and in
57 such amounts as shall be necessary to meet payments of
58 principal and interest on such revenue obligations being
59 refinanced or to redeem the same prior to the maturities
60 thereof. Such investments may be sold at not less than
61 the amount paid therefor, and such deposits may be with-
62 drawn, to the extent necessary to provide moneys for
63 the purchase of any of such revenue obligations. Earn-
64 ings from such investments shall, as received, be trans-
65 ferred to and deposited in the sinking fund reserve or
66 the bond and interest sinking fund established for pay-
67 ment of the refunding bonds.

Sec. 16. Article Complete Authority for Refunding

2 **Bonds.**—This article constitutes full and complete au-
3 **thority** for the issuance of refunding bonds. No proce-
4 **dure or proceedings,** publications, notices, consents, ap-
5 **provals,** orders, acts or things by any governing body of
6 **any public body,** or any board, officer, commission, de-

7 partment, agency, or instrumentality of the state or any
8 public body shall be required to issue any refunding
9 bonds or to do any act or perform any thing under this
10 article, except as may be prescribed in this article. The
11 powers conferred by this article shall be in addition and
12 supplemental to, and not in substitution for, and the lim-
13 itations imposed by this article shall not affect the powers
14 conferred by any other law: *Provided, however,* That
15 the principal amount of bonds authorized by this article
16 for refunding or refinancing shall be deemed to apply to
17 the principal amount of refunding bonds authorized
18 by all other laws providing for the issuance and refund-
19 ing of revenue bonds by public bodies, and the sale there-
20 of, notwithstanding any contrary provisions of such other
21 laws. This article is remedial in nature and shall be
22 liberally construed.

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

Clay Parker
Chairman Senate Committee

Jones W. Loop
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard Myers
Clerk of the Senate

A Blankenship
Clerk of the House of Delegates

Howard H. Gason
President of the Senate

H. Selau White
Speaker House of Delegates

The within approved this the 19
day of March, 1965.

Hueyt C. Smith
Governor

