WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1967

ENROLLED

SENATE
HOUSE BILL No. 270

(BY MR. CAREW, MR. PRESIDENT, AND MR. MORELAND)

PASSED March 11, 1967

IN EFFECT May 6, 1967

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-20-67
ENROLLED

Senate Bill No. 270

(By Mr. Carson, Mr. President, and Mr. Moreland)

[Passed March 11, 1967; in effect May 1, 1967.]

AN ACT to repeal article eight-a, chapter eleven; chapter thirteen-a; section thirty-seven, article five, chapter eighteen; section thirty, article three, chapter fifty-six, and section thirty-four, article one, chapter fifty-nine, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one, two and fourteen, article three, chapter one; section seven, article one, chapter three; section two, article four, chapter three; sections ten and twenty-one, article five, chapter three; section three, article six, chapter three; sections two, three, four, five and six, article ten, chapter three; sections twelve and twenty-three, article three, chapter five-a; section one, article three, chapter six; sections three-a and three-h, article one, chapter seven; section four, article two, chapter seven; section three, article three, chapter seven; section sixteen, article five, chapter seven; section seven, article eight, chapter seven; section ten, article nine, chapter seven; section twelve, article twelve, chapter seven; sections three, five, fifteen and seventeen, article two, chapter eight; section two, article three, chapter eight; sections ten-j, fourteen, twenty, twenty-one and twenty-seven, article four, chapter eight; sections six and seventeen, article four-a, chap-
ter eight; sections eighteen, forty-four and forty-eight, article five, chapter eight; section seven, article seven, chapter eight; sections eight and eleven, article seven-a, chapter eight; sections three and eight, article eight, chapter eight; sections two, five and six, article nine, chapter eight; section six, article eleven, chapter eight; sections one-a and four, article twelve, chapter eight; section five, article thirteen, chapter eight; sections four, nine, twelve and fifteen-a, article two, chapter eight-a; section ten, article three, chapter eight-a; section twenty-eight, article four, chapter eight-a; sections seven, eleven and twenty-one, article six, chapter eight-a; section six, article two-a, chapter ten; section twenty-four, article three, chapter eleven; sections seventeen and thirty-two, article eight, chapter eleven; section eighty-four, article twelve, chapter eleven; section eight, article one, chapter eleven-a; sections ten-a, and thirteen, article two, chapter eleven-a; sections two, twenty-four and forty-one, article three, chapter eleven-a; sections twelve and twenty-three, article four, chapter eleven-a; sections eight, twenty-one and twenty-five, article one, chapter thirteen; section seven, article three, chapter thirteen; sections eight and twenty-eight, article one, chapter fourteen; section nine, article one-b, chapter fifteen; section one, article ten, chapter sixteen; sections one, four, nine and eleven, article twelve, chapter sixteen; sections six, sixteen, eighteen-a and twenty-three-a, article thirteen, chapter sixteen; sections two and seven, article thirteen-a, chapter sixteen; section twenty, article fifteen, chapter sixteen; sections six, seven and ten, article eighteen, chapter sixteen; section five, article twenty, chapter sixteen; section nineteen, article four, chapter seventeen; sections eight and nine, article ten, chapter seventeen; section thirteen-g, article two, chapter eighteen; sections two and three-a, article nine, chapter eighteen; section nine, article four, chapter nineteen; section fifteen, article nine, chapter nineteen; section two, article seventeen, chapter nineteen; sections four, six, thirteen, fourteen and twenty-one, article twenty-one, chapter nineteen; section three, article twenty-one-a,
chapter nineteen; section eight, article twenty-three, chapter nineteen; sections one and three, article twenty-four, chapter nineteen; section seven, article one, chapter twenty; section sixteen, article two, chapter twenty; section nineteen, article three, chapter twenty; section seven, article five, chapter twenty-two; section four, article two, chapter twenty-four; section three, article three, chapter twenty-four-a; section thirty-one, article one, chapter twenty-five; section four, article three, chapter twenty-five; section eleven, article five, chapter twenty-eight; section two, article three, chapter twenty-nine-a; sections four-a, nine, thirteen-a, twenty-one, thirty-four, thirty-seven, sixty-three, eighty and eighty-four, article one, chapter thirty-one; section fifteen, article two, chapter thirty-one; section two, article three, chapter thirty-one; sections eight and sixteen, article four, chapter thirty-one; sections ten, eleven, fourteen, twenty-five-a, thirty-two, forty-three and forty-four, article eight, chapter thirty-one; section one, article one, chapter thirty-four; section two, article two, chapter thirty-four; section ten, article one, chapter thirty-five; section two, article five, chapter thirty-five; section twelve-a, article two, chapter thirty-six; sections twelve and seventeen, article eight, chapter thirty-six; section twenty-four, article six, chapter thirty-seven; section three, article thirteen, chapter thirty-seven; sections four and ten, article one, chapter thirty-eight; section fifteen, article two, chapter thirty-eight; section eleven, article three, chapter thirty-eight; section twenty, article four, chapter thirty-eight; section eight, article five, chapter thirty-eight; section fourteen, article eleven, chapter thirty-eight; section three, article twelve, chapter thirty-eight; sections five and nine, article thirteen, chapter thirty-eight; section eleven, article three, chapter thirty-nine; section two, article two, chapter forty-four; section eleven, article four, chapter forty-four; section eight, article eight, chapter forty-four; sections three and nine, article nine, chapter forty-four; sections two, five and seven, article eleven, chapter forty-four; section two, article three, chapter forty-seven; section two, article four, chapter forty-seven; section three, article four, chapter forty-eight; sec-
tion one, article five, chapter forty-eight; section eight, article five, chapter forty-nine; section fourteen, article six, chapter fifty-one; section three, article two, chapter fifty-four; section two, article twelve, chapter fifty-five; section two, article two, chapter fifty-six; sections twenty-four and twenty-eight, article three, chapter fifty-six; section three, article seven, chapter fifty-six; section thirteen, article eight, chapter fifty-six; section ten, article four, chapter sixty; section four, article five, chapter sixty; section twenty-one, article six, chapter sixty; section two, article seven, chapter sixty-one; and section twenty-eight, article ten, chapter sixty-one, all of said code; and to amend chapter fifty-nine of said code by adding thereto a new article, designated article three, relating to county-wide levy for district debt service, public indebtedness not bonded, the authority of boards of education to impose personal school tax, posting notice of election for creation of public service district, licenses to carry weapons, purchasing of commodities and printing produced by nonprofit workshops, air pollution control rules and regulations, the appointment of deputies and local conservators of the peace and the compensation of sheriffs and deputies, the financial statements of municipalities, county courts and county boards of education, the powers of a municipality with respect to an order to cease the pollution of waters, and the publishing and/or posting of notices, advertisements, statements, information and other matters required by law or court to be published and/or posted; defining certain terms and concepts used in said code and elsewhere in law with respect to newspapers, legal advertisements and publication of a newspaper; providing the rates which may be charged and received by a publisher or proprietor of a newspaper for publishing legal and political advertisements; authorizing mandamus to compel publication; providing civil and criminal penalties; relating to construction of other provisions in said code and elsewhere in law relating to newspapers, legal advertisements and publication of a newspaper; and providing a repealer provision and severability clause.
Be it enacted by the Legislature of West Virginia:

“That article eight-a, chapter eleven; chapter thirteen-a; section thirty-seven, article five, chapter eighteen; section thirty, article three, chapter fifty-six, and section thirty-four, article one, chapter fifty-nine, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections one, two and fourteen, article three, chapter one; section seven, article one, chapter three; section two, article four, chapter three; sections ten and twenty-one, article five, chapter three; section three, article six, chapter three; sections two, three, four, five and six, article ten, chapter three; sections twelve and twenty-three, article three, chapter five-a; section one, article three, chapter six; sections three-a and three-h, article one, chapter seven; section four, article two, chapter seven; section three, article three, chapter seven; section sixteen, article five, chapter seven; section seven, article eight, chapter seven; section ten, article nine, chapter seven; section twelve, article twelve, chapter seven; sections three, five, fifteen and seventeen, article two, chapter eight; section two, article three, chapter eight; sections ten-j, fourteen, twenty, twenty-one and twenty-seven, article four, chapter eight; sections six and seventeen, article four-a, chapter eight; sections eighteen, forty-four and forty-eight, article five, chapter eight; section seven, article seven, chapter eight; sections eight and eleven, article seven-a, chapter eight; sections three and eight, article eight, chapter eight; sections two, five and six, article nine, chapter eight; section six, article eleven, chapter eight; sections one-a and four, article twelve, chapter eight; section five, article thirteen, chapter eight; sections four, nine, twelve and fifteen-a, article two, chapter eight-a; section ten, article three, chapter eight-a; section twenty-eight, article four, chapter eight-a; sections seven, eleven and twenty-one, article six, chapter eight-a; section six, article two-a, chapter ten; section twenty-four, article three, chapter eleven; sections seventeen and thirty-two, article eight, chapter eleven; section eighty-four, article twelve, chapter eleven; section twenty, article seventeen, chapter eleven; section seven-a, article nineteen, chapter eleven; section eight, article one, chapter eleven-a; sections ten-a and thirteen, article two, chapter eleven-a; sections two, twenty-four and forty-one, article three, chapter eleven-a;
sections twelve and twenty-three, article four, chapter eleven-a; sections eight, twenty-one and twenty-five, article one, chapter thirteen; section seven, article three, chapter thirteen; sections eight and twenty-eight, article one, chapter fourteen; section nine, article one-b, chapter fifteen; section one, article ten, chapter sixteen; sections one, four, nine and eleven, article twelve, chapter sixteen; sections six, sixteen, eighteen-a and twenty-three-a, article thirteen, chapter sixteen; sections two and seven, article thirteen-a, chapter sixteen; section twenty, article fifteen, chapter sixteen; sections six, seven and ten, article eighteen, chapter sixteen; section five, article twenty, chapter sixteen; section nineteen, article four, chapter seventeen; sections eight and nine, article ten, chapter seventeen; section thirteen-g, article two, chapter eighteen; sections two and three-a, article nine, chapter eighteen; section nine, article four, chapter nineteen; section fifteen, article nine, chapter nineteen; section two, article seventeen; sections four, six, thirteen, fourteen and twenty-one, article twenty-one, chapter nineteen; section three, article twenty-one-a, chapter nineteen; section eight, article twenty-three, chapter nineteen; sections one and three, article twenty-four, chapter nineteen; section seven, article one, chapter twenty; section sixteen, article two, chapter twenty; section seven, article nineteen, chapter twenty; section one, article three, chapter twenty; section seventeen, article three, chapter twenty; section eleven, article five, chapter twenty-two; section four, article two, chapter twenty-four; section three, article three, chapter twenty-four-a; section thirty-one, article one, chapter twenty-five; section four, article three, chapter twenty-five; section eleven, article five, chapter twenty-eight; section two, article three, chapter twenty-nine-a; sections four-a, nine, thirteen-a, twenty-one, thirty-four, thirty-seven, sixty-three, eighty and eighty-four, article one, chapter thirty-one; section fifteen, article two, chapter thirty-one; section two, article three, chapter thirty-one; sections eight and sixteen, article four, chapter thirty-one; sections ten, eleven, fourteen, twenty-five-a, thirty-two, forty-three and forty-four, article eight, chapter thirty-one; section one, article one, chapter thirty-four; section two, chapter thirty-five; section two, article five, chapter thirty-five; section two, article five, chapter thirty-five; section twelve-a, article two, chapter thirty-six; sections twelve and seventeen, article eight, chapter
CHAPTER 1. THE STATE AND ITS SUBDIVISIONS.

ARTICLE 3. CREATION OF NEW COUNTY; CHANGE IN COUNTY LINE.

§1-3-1. Notice of intention to create new county.

1 When it is intended to apply to the Legislature for
2 the passage of an act to create a new county, a notice
3 of such intention shall be published as a Class II legal
4 advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the
publication area for such publication shall be each county
from which any part of such new county is proposed to
be taken.

§1-3-2. Survey and census; area and population.

The county court of each of the counties out of which
the new county is proposed to be formed, at its first
session after the notice mentioned in the next preceding
section has been published, as required by said section,
shall order a survey of the whole county, and of that
portion thereof proposed to be included in the new
county, to be made by the surveyor of such county, if
there be one, and if not by some other competent sur-
veyor, in order to ascertain the number of square miles
in the county, as well as in that portion thereof pro-
posed to be included in such new county. Such court
shall also appoint some one or more competent person
or persons to take a census of the population of such
county, and of that part thereof proposed to be included
in such new county, in order to ascertain whether or not
there will remain in such county a population of six
thousand after the creation of such new county. It shall
be the duty of the surveyor so directed or appointed
to make such survey, and of the person or persons so
appointed to take the census, as soon as their fees are
paid or secured to be paid in a manner satisfactory to
them to proceed in the shortest time practicable to make
such survey and take such census and make report
thereof to the county court by which they were ap-
pointed; and the surveyor shall return and file with his
report two fair plats and certificates of the survey made
by him, showing the metes and bounds of the county
and the number of square miles of territory contained
therein, and the number of square miles contained within
that portion thereof proposed to be included in the new
county, and the metes and bounds thereof. The return
of such survey and census shall be noted in the records
of the court, and such reports shall be filed and pre-
served by the clerk of such court in his office, and a
notice in writing that such return of the survey and
census has been made shall be sent to the county court of the other county out of which such new county is proposed to be formed.

§1-3-14. Notice and survey in case of changing a county line.

When it is proposed to change a county line, a notice thereof shall be published prior to the application for a survey of the proposed change as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county from which any territory is proposed to be taken. At any time after such notice has been published, the county court of the county, a part of whose territory is proposed to be attached to another county, shall, on application of any person interested, and at his expense, cause a survey of the proposed change of line to be made by the surveyor of the county, or by some competent surveyor appointed for the purpose. The surveyor so appointed, or directed, to make such survey shall, as soon as his fees therefor are paid or secured to be paid to his satisfaction, proceed to make such survey and return a plat and report thereof to said court, and the clerk thereof shall file and preserve the same in his office; and shall, as provided in section three of this article, make out and deliver to any person who may demand the same, a certified copy thereof. Every application to the Legislature for the change of a county line shall be accompanied by a duly certified copy of such plat and report. If the county court of such county refuse to order such survey to be made, or if the surveyor appointed by such court to make such survey fail or refuse to do so, then and in that event the county court of the county to which such territory is proposed to be added shall, on the application of any person interested, and at his expense, order the survey to be made and appoint a surveyor to make the same; and the surveyor so appointed shall, as soon as his fees therefor are paid or secured to be paid to his satisfaction, make and report such survey to the county court of his county as hereinbefore required.
CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-7. Precinct changes; procedure; precinct record.

1 Subject to the provisions and limitations of section five of this article, the county court of any county may change the boundaries of any precinct within such county, or divide any precinct into two or more precincts, or consolidate two or more precincts into one, or change any place of holding elections, whenever the public convenience may require it. If by reason of the destruction of the house or structure at which a voting place is established, or if for any other reason the election cannot be held thereat, and no provision have been made by the county court for holding the election at another place, the commissioners of election at such place may hold the election at the place nearest thereto which they can secure for the purpose; and in such case they shall make known by proclamation, to the voters assembled at such first named place of voting, the place at which the election will be held. The county court shall, in such case, establish another place of voting for said precinct as soon thereafter as practicable. No order effecting such change, division, or consolidation shall be made by the county court within ninety days next preceding an election nor without giving notice thereof at least one month before such change, division or consolidation, by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such precinct or precincts are located.

29 Such court shall also, within fifteen days after the date of such order, cause a copy thereof to be published as aforesaid.

32 Such court shall also, before the next succeeding election, cause the voters in the several precincts so affected by such order to be duly registered in the proper precinct or precincts.

36 The county court shall keep in a well-bound book, marked "election precinct record", a complete record
of all their proceedings hereunder and of every order
made creating a precinct or precincts or establishing a
place of voting therein. Such “election precinct record”
shall be kept by the county court clerk in his office,
and shall, at all reasonable hours, when not actually
in use by the county court, be open to inspection by any
citizen of the county.

ARTICLE 4. VOTING MACHINES.

§3-4-2. Procedures for adopting voting machines.

Voting machines may be adopted for use in general, pri-
mary and special elections in any county by either of the
following procedures, and not otherwise:

(1) By a majority of the members of the county court
voting to adopt the same at a meeting regularly called
in regular or special session: Provided, however, That
such meeting shall be held not less than six months prior
to a general election or six months prior to a primary
election. If at such meeting, such county court shall enter
an order of its intention to adopt the use of voting ma-
chines, it shall thereafter forthwith cause to be published
a certified copy of such order as a Class II-0 legal adver-
tisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication
area for such publication shall be the county involved.
The first publication of such order shall not be less than
twenty days after the entry of such order. Such county
court shall not adopt the use of voting machines until
ninety days after the entry of such order of its intention to
adopt the same. Promptly after the expiration of ninety
days after the entry of such order of intention to adopt the
use of voting machines, if no petition has theretofore been
filed with such county court requesting a referendum on
the question of adoption of voting machines as hereinafter
provided, such county court shall enter a final order adopt-
ing voting machines, and voting machines shall thereby
be adopted.

If five per cent or more of the registered voters of such
county shall sign a petition requesting that voting ma-
chines be not adopted for use in such county and such
petition be filed with the county court of such county
within ninety days after the entry of such order of intention to adopt the use of voting machines, such county court shall submit to the voters of such county at the next general or primary election, whichever shall first occur, the question: “Shall voting machines be adopted in ............ County?” If this question be answered in the affirmative by a majority of the voters in such election upon the question, voting machines shall thereby be adopted. If such question shall not be answered in the affirmative by such majority, the use of voting machines shall not be adopted.

(2) By the affirmative vote of a majority of the voters of such county voting upon the question of the adoption of voting machines in such county. If five per cent or more of the registered voters of such county shall sign a petition requesting the adoption of voting machines for use in such county, and such petition be filed with the county court of such county, such county court shall submit to the voters of such county at the next general or primary election, following by not less than ninety days the date of the filing of such petition, the question: “Shall voting machines be adopted in ............ County?” If this question be answered in the affirmative by a majority of the voters of such county voting upon the question, voting machines shall thereby be adopted. If such question shall not be answered in the affirmative by such majority, the use of voting machines shall not be adopted.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-10. Publication and printing of ballots; number.

1 Between the sixtieth and the thirtieth days next prior to the date of the primary election, the ballot commissioners of each county shall prepare from the lists and certificates of announcements, as provided in this article, a sample official primary ballot for each party, placing thereon the names of all the candidates of the political party, and, as the case may be, the nonpartisan candidates to be voted for at such primary election. During the two weeks next preceding the primary election they shall publish such sample official primary election ballot as a Class
II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The second publication shall be on the last day upon which each newspaper is published before the election.

The ballot commissioners shall determine the total number of official ballots required for conducting the primary election in all of the election precincts of the county and shall cause same to be printed at least thirty days next preceding the date of the election and made ready for delivery to the several precincts along with other election supplies. The number of official ballots of a political party prepared for delivery to a precinct shall not exceed one and one-twentieth times the number of registered voters of such party in that precinct.

§3-5-21. Party conventions to nominate presidential electors; candidates; organizations; duties.

Candidates for presidential electors shall be nominated by the delegated representatives of the political party assembled in a state convention to be held between the first and fifteenth days of August next preceding any general election at which presidential electors are to be elected. The state executive committee of the political party, by resolution, shall designate the place and fix the date of such convention, shall prescribe the number of delegates thereto, and shall apportion the delegates among the several counties of the state in proportion to the vote cast in the state for the party's candidate for governor at the last preceding general election at which a governor was elected. The state executive committee shall also ascertain and designate all offices for which candidates are to be nominated at such convention.

At least sixty days prior to the date fixed for holding any state convention, the chairman of the party's state executive committee shall cause to be delivered to the party's county executive committee in each county of the state a copy of the resolutions fixing the time and place of holding the state convention and prescribing the number of delegates from each county to the convention. Within ten days after receipt of the copy of such resolutions, the
party executive committee of each county shall meet and, by resolution, shall apportion the delegates to the state convention among the several magisterial districts of the county, on a basis of the vote received in the county by the candidate of the party for governor at the last preceding general election at which a governor was elected, but in such apportionment of county delegates each magisterial district shall be entitled to at least one delegate to such state convention. The party's county executive committee shall call a meeting of the members of the political party in mass convention in the several magisterial districts of the county, which district meeting shall be held at least thirty days prior to the date fixed for the state convention and at which meeting the members of the political party in each magisterial district shall elect the number of delegates to which such district is entitled in the state convention.

The meeting place in the magisterial district shall be as central and convenient as can reasonably be selected, and all recognized members of the political party shall be entitled to participate in any such mass convention and in the selection of delegates. Notice of the time and place of holding the several magisterial district mass conventions and of the person who shall act as temporary chairman thereof shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

The first publication shall be made not more than fifteen days and the second publication shall be made not less than five days prior to the date fixed for holding the convention. The notice published shall specify the number of delegates which each magisterial district in the county is entitled to elect to the state convention.

Upon assembling, the mass convention of each magisterial district shall choose a chairman and a secretary, who, within five days after the holding of such convention, shall certify to the chairman of the state executive committee of the political party and the chairman of the county committee of the political party, the names and addresses of the parties selected as delegates to the state convention.
All contests over the selection of delegates to conventions shall be heard and determined by the party executive committee of the county from which the delegates are chosen, and such county executive committee shall, upon written petition of any contestant, meet for such hearings and determinations within ten days after the holding of such magisterial district mass convention. The circuit court of the county and the supreme court of appeals of the state shall have concurrent original jurisdiction to review, by mandamus or other proper proceeding, the decision of a county executive committee in any contest.

The delegates chosen and certified by and from the several magisterial districts in the state, and, in the event of any contest, those prevailing in the contest, shall make up the state convention. The number present of those entitled to participate in any convention shall cast the entire vote to which the county is entitled in such convention, and it shall require a majority vote to nominate any candidate for office.

All nominations made at state conventions shall be certified within fifteen days thereafter, by the chairman and the secretary of the convention, to the secretary of state, who shall certify them to the clerk of the circuit court of each county concerned, and the names of the persons so nominated shall be printed upon the regular ballot to be voted at the ensuing general election, except that the names of the presidential elector candidates shall not be printed thereon.

The delegates to any state convention may formulate and promulgate such party platform or declaration of party principles as to them shall seem advisable.

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

§3-6-3. Publication of nominations.

1 At least ten days before an election to fill any public office at which the voters of any county are entitled to vote, the clerk of the circuit court of such county shall cause to be published the nominations for office certified to him and filed in his office, excepting nominations for office to be filled by the voters of any subdivision less
than a county, such nominations to be published as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The second publication shall be on the last day upon which each newspaper is published before the election. Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names or description of candidates nominated for public office, or in the printing of the ballots, the board of ballot commissioners shall correct such error. The list of nominations published by clerks of the circuit courts of the several counties shall be arranged in the order and form in which they will be printed upon the ballot.

ARTICLE 10. FILLING VACANCIES.
§3-10-2. Vacancy in office of governor.
1 In case of the death, conviction or impeachment, failure to qualify, resignation or other disability of the governor, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above named causes, shall be or become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of delegates; and in all other cases where there is no one to act as governor, one shall be chosen by the joint vote of the Legislature. Whenever a vacancy shall occur in the office of governor before the first three years of the term shall have expired, a new election for governor shall take place to fill the vacancy. If the vacancy shall occur more than thirty days next preceding a general election, the vacancy shall be filled at such election and the acting governor for the time being shall issue a proclamation accordingly, which shall be published prior to such election as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county of the state. But if it shall occur less than thirty days next preceding such general election, and more than one year before the expiration of the term, such acting governor shall issue
a proclamation, fixing a time for a special election to fill such vacancy, which shall be published as hereinbefore provided.

If the vacancy is to be filled at a general election and shall occur before the primary election to nominate candidates to be voted for at such general election, candidates to fill the vacancy shall be nominated at such primary election in accordance with the time requirements and the provisions and procedures prescribed in article five of this chapter. When nominations to fill such vacancy cannot be so accomplished at such primary election, and in all cases wherein the vacancy is to be filled at a special election, candidates to be voted for at such general or special elections shall be nominated by a state convention to be called, convened and held under the resolutions, rules and regulations of the political party executive committees of the state. The laws prescribing the manner of calling, constituting and holding conventions to nominate candidates for presidential electors shall, in so far as applicable, govern conventions to nominate candidates to fill any vacancy in any office to be filled by the voters of the state as a whole, except that, in lieu of the magisterial district conventions in the several counties, the county executive committee shall call and convene a county convention at the county seat with delegates thereto apportioned to and representative of the several magisterial districts of the county as provided in section twenty-one of article five of this chapter. The county convention shall proceed to select the county’s prescribed number of state convention delegates from the several magisterial districts thereof and the chairman and secretary of the convention shall promptly certify the names and addresses of the persons so selected as delegates to the state convention to the chairman of the state executive committee of the political party.

§3-10-3. State officials, United States senator and judge vacancies.

Any vacancy occurring in the office of secretary of state, auditor, treasurer, attorney general, commissioner
of agriculture, United States senator, judge of the su-
preme court of appeals, or in any office created or made
elective, to be filled by the voters of the entire state,
or judge of a circuit court, a common pleas, intermedi-
ate, criminal or other inferior court, shall be filled by
the governor of the state by appointment. If the unex-
pired term of a judge of the supreme court of appeals,
or a judge of the circuit court, a common pleas, inter-
mediate, criminal or other inferior court, be for less than
two years; or if the unexpired term of any other office
named in this section be for a period of less than two
years and six months, the appointment to fill the va-
cancy shall be for the unexpired term. If the unexpired
term of any office be for a longer period than above
specified, the appointment shall be until the next gen-
eral election and until the election and qualification of
a successor to the person appointed, at which election
the vacancy shall be filled by election for the unexpired
term. Proclamation of any election to fill an unexpired
term shall be made by the governor of the state, and,
in the case of an office to be filled by the voters of the
entire state, shall be published prior to such election as
a Class II-0 legal advertisement in compliance with the
provisions of article three, chapter fifty-nine of this code,
and the publication area for such publication shall be
each county of the state. If the election be to fill a
vacancy in the office of judge of a circuit court, the
proclamation shall be published prior to such election
as a Class II-0 legal advertisement in compliance with
the provisions of article three, chapter fifty-nine of this
code, and the publication area for such publication shall
be each county in the judicial circuit. If the election
be to fill a vacancy in the office of judge of a common
pleas, intermediate, criminal or other inferior court, the
proclamation shall be published prior to such election
as a Class II-0 legal advertisement in compliance with
the provisions of article three, chapter fifty-nine of this
code, and the publication area for such publication shall
be the county in which such court is located. Candidates
to fill any vacancy in any office named in this section
shall be nominated in the manner provided in this
article for nominating candidates to fill a vacancy in the office of governor, to be voted for at a general election, but, in selecting candidates for the office of judge to serve in a single county, the county executive committee of the county shall perform the duties relating thereto, and, in selecting candidates for the office of judge of a circuit court in circuits embracing more than one county, the county executive committees of the counties concerned shall resolve themselves into a judicial circuit committee for discharge of the duties relating to such nominations.

§3-10-4. Congressmen vacancies.

If there be a vacancy in the representation from this state in the House of Representatives in the Congress of the United States, the governor shall, within ten days after the fact comes to his knowledge, give notice thereof by proclamation, to be published prior to such election as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in the congressional district. In such proclamation he shall appoint some day, not less than thirty nor more than seventy-five days from the date thereof, for holding the election to fill such vacancy. Nominations to fill such vacancy shall be made in the manner prescribed for nominating a candidate to fill a vacancy in the office of governor, to be voted for at a special election. The congressional district executive committee of a party shall perform the duties devolving upon the state executive committee in filling a state office.

§3-10-5. Vacancies in state legislature.

Any vacancy in the office of state senator or member of the House of Delegates shall be filled by appointment by the governor, in each instance from a list of three legally qualified persons submitted by the county party executive committee in the case of a member of the House of Delegates who is elected from a county that is not situated in a delegate district, by the party executive com-
mittee of the delegate district in the case of a member of the House of Delegates who is elected from such delegate district, and by the party executive committee of the state senatorial district in the case of a state senator, of the party with which the person holding the office immediately preceding the vacancy was affiliated, and of the county, delegate district or state senatorial district, respectively, in which he resided at the time of his election or appointment. The appointment to fill a vacancy in the House of Delegates shall be for the unexpired term. If the unexpired term in the office of the state senator be for less than two years and two months, the appointment shall be for the unexpired term. If the unexpired term be for a period longer than two years and two months, the appointment shall be until the next general election and until the election and qualification of a successor to the person appointed, at which general election the vacancy shall be filled by election for the unexpired term. Notice of an election to fill a vacancy in the office of state senator shall be given by the governor by proclamation and shall be published prior to such election as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in the senatorial district. Nominations for candidates to fill such vacancy shall be made in the manner prescribed for nominating a candidate to fill a vacancy in the office of governor to be voted for at a general election. The state senatorial district executive committee of the political party shall discharge the duties incident to state senator nominations devolving upon the party state executive committee in nominating a candidate for a state office.

§3-10-6. Circuit court clerk vacancies.

When a vacancy occurs in the office of clerk of the circuit court, the circuit court, or the judge thereof in vacation, shall fill the same by appointment until the next general election, and the person so appointed shall hold office until his successor is elected and qualified. At such general election a clerk shall be elected for the unexpired term. The circuit court, or the judge thereof in vacation,
shall cause a notice of such election to be published prior to such election as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county involved. If the vacancy occurs before the primary election held to nominate candidates to be voted for at the general election, at which any such vacancy is to be filled, candidates to fill such vacancy shall be nominated at such primary election in accordance with the time requirements and the provisions and procedures prescribed in article five of this chapter. Otherwise, they shall be nominated by the county executive committee in the manner provided in section nineteen, article five, of this chapter, as in the case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the circuit court of such county, shall be placed upon the ballot to be voted at such next general election.

CHAPTER 5A. DEPARTMENT OF FINANCE AND ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-12. Publication of solicitations for sealed bids; purchase of products of nonprofit workshops.

The director shall solicit sealed bids for the purchase of commodities and printing that is estimated to exceed two thousand dollars. No spending unit shall issue a series of requisitions which would circumvent this two thousand dollar maximum. Bids shall be obtained by public notice published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the department or agency making the requisition is located. Such notice shall be so published within the fourteen days next preceding the final date of submitting bids. The notice may also be published by any other advertising medium the director may deem advisable. The director may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a bulletin
board in his office: Provided, That the director shall, without competitive bidding, purchase commodities and printing produced and offered for sale by nonprofit workshops, as defined in section one of article one of this chapter, which are located in this state: Provided, however, That such commodities and printing shall be of a price and quality comparable to other commodities and printing otherwise available.

§5A-3-23. Disposition by director of commodities; application of proceeds from sale.

The director shall have the exclusive power and authority to make disposition of commodities or expendable commodities now owned or in the future acquired by the state, when any such commodities are or shall become obsolete, unusable or are not being used, or need to be replaced, and are so reported in writing by the department owning or having custody or control thereof as available for the director’s disposition.

It shall be the duty of the director to determine what commodities or expendable commodities should be disposed of and he shall make such disposition in the manner which in his opinion will be most advantageous to the state, either by transferring the particular commodities or expendable commodities between departments, by trading in such commodities as a part payment on the purchase of new commodities, or by sale thereof to the highest bidder by means of public auctions, or sealed bids after having first advertised the time, terms and place of such sale as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county wherein the sale is to be conducted. The sale may also be advertised in such other advertising medium as the director may deem advisable. The director shall have the authority to sell to the highest bidder or to any one or more of the highest bidders, if there be more than one, or, if in his opinion the best interest of the state will be served, to reject all bids. Upon the transfer of commodities or expendable commodities between departments, the director shall set the price to be paid
by the receiving department with due consideration given to current market prices. The proceeds of such sales or transfers shall be deposited in the state treasury to the credit on a pro rata basis of the fund or funds out of which the purchase of the particular commodities or expendable commodities was made.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 3. DEPUTY OFFICERS AND CONSERVATORS OF THE PEACE.

§6-3-1. Appointment of deputies; conservators of the peace.

(a) (1) The clerk of the supreme court of appeals, or of any circuit, criminal, common pleas, intermediate or county court, or of any tribunal established by law in lieu thereof, may, with the consent of the court, or such tribunal, duly entered of record, appoint any person or persons his deputy or deputies.

(2) A sheriff, surveyor of lands, or assessor may, with the consent of the county court duly entered of record, appoint any person or persons his deputy or deputies.

(3) A sheriff, when in the opinion of the judge of the circuit court the public interest requires it, may, with the assent of said court, duly entered of record, appoint any person or persons his deputy or deputies to perform any temporary service or duty.

(4) Each deputy so appointed shall take the same oath of office required of his principal, and may, during his continuance in office, perform and discharge any of the official duties of his principal, and any default or misfeasance in office of the deputy shall constitute a breach of the conditions of the official bond of his principal.

(5) A sheriff in any county in which there are more than four deputies shall devote his full time to the performance of the services or duties required by law of such sheriff, and he shall not receive any compensation or reimbursement, directly or indirectly, from any person, firm or corporation for the performance of any private or public services or duties: Provided, That any such sheriff may retain or make any investment and receive income therefrom, unless such investment is otherwise
prohibited by law or will impair his independence of
judgment in the exercise of, or might reasonably tend
to conflict with the proper discharge of, the services or
duties of his office. A sheriff in any county in which
there are four or fewer deputies, or a deputy sheriff in
any county irrespective of the number of deputies, need
not devote his full time to the services or duties of his
office as sheriff or his employment as deputy sheriff, as
the case may be; but any such sheriff or deputy sheriff
shall not engage in any business or transaction, accept
other employment or make any investment which is oth-
erwise prohibited by law or which will impair his in-
dependence of judgment in the exercise of, or might
reasonably tend to conflict with the proper discharge of,
the services or duties of his offices as sheriff or his em-
ployment as deputy sheriff, as the case may be. A
sheriff and his deputies in any county, irrespective of
the number of deputies, shall receive for the performance
of their public services and duties no compensation or
remuneration except such as may be regularly provided
and paid out of public funds to the amount and in the
manner provided by law. No sheriff or deputy sheriff
in any county, irrespective of the number of deputies,
may receive, directly or indirectly, any gift or donation
from any person, firm or corporation.

(6) Except as hereinafter expressly provided by para-
graph (b) of this section no sheriff shall appoint or con-
tinue the appointment of any deputy contrary to the pro-
visions hereof. Any sheriff or deputy sheriff who shall
violate any of the provisions of this section shall be guilty
of a misdemeanor and upon conviction thereof shall be
fined not less than five hundred dollars nor more than
five thousand dollars, or confined in jail not to exceed
one year, or both, in the discretion of the court.

(7) Circuit courts shall have jurisdiction in equity and
mandamus, and the supreme court of appeals shall have
jurisdiction in mandamus, upon the filing of a petition
by the prosecuting attorney, the attorney general, or any
three or more citizens of the county, to require any sher-
iff and the county court to vacate the appointment of any
deputy, the appointment of which is made or continued
in violation of the provisions hereof. Any such proceeding may be instituted and prosecuted by the attorney general either in the circuit court of Kanawha county or in the county for which such appointment was made.

(b) (1) Any resident or group of residents of any unincorporated community, as hereinafter defined, may petition the sheriff for the appointment of a local conservator of the peace and such sheriff, when in his opinion the public interests require it, may with the assent of said county court and the judge of the circuit court duly entered of record, either in term or vacation of any such court, appoint any person or persons a local conservator or conservators of the peace to perform the duties of a conservator of the peace outside of any incorporated city, town or village. No person shall be appointed such local conservator of the peace who has not been a bona fide resident and taxpayer of the county for at least one year prior to his appointment. Such local conservator of the peace during his continuance in office, may perform and discharge any of the official duties of the sheriff, subject nevertheless to the provisions of this section. No local conservator so appointed shall be subject to the direction or control of any person other than his principal and he shall not perform any services or duties, either private or public, except the duties required by law of conservators of the peace pursuant to the provisions hereof, for any person, firm, or corporation. No such local conservator shall be entitled to collect or receive any fees provided by law to be paid to the sheriff or to a deputy sheriff, but all fees provided by law for the sheriff, when such duties and services are rendered by such local conservator, shall be paid to the sheriff as regular collections of the sheriff's office. The local conservator shall be paid for the public services performed by him a salary of not less than seventy-five dollars per month out of the county treasury from a fund to be paid into such treasury by a resident or the residents of the community for which he is appointed, for the sole purpose of compensating such local conservator or conservators and no such local conservator shall receive any other compensation, directly or indirectly, from any per-
son, firm, or corporation, for any private or public serv-

112 ice, except the salary payable to him for his public serv-

113 ices and duties and from such fund, except that he shall

114 be entitled to witness and mileage fees when a witness

115 in a court of record. Each local conservator so appointed

117 shall take the same oath of office required of his princi-

118 pal and any default or misfeasance in the office of such

119 local conservator shall constitute a breach of the condi-

120 tions of the official bond of his principal.

121 (2) When the sheriff shall have been petitioned for the

122 appointment of a local conservator and has determined

123 that the appointment is proper, he shall select the per-

124 son whom he proposes to have appointed such conser-

125 vator and shall notify the county court of the community

126 for which such conservator is to be appointed and the

127 name of the person proposed for such appointment. The

128 county court shall thereupon cause notice that the sher-

129 iff has recommended the appointment of the person

130 named as conservator for the community named to be

131 published as a Class II legal advertisement in compli-

132 ance with the provisions of article three, chapter fifty-nine

133 of this code, and the publication area for such publica-

134 tion shall be the county. The notice shall designate a

135 day not less than five days after the date of the last pub-

136 lication when the county court will act upon the petition

137 and recommendation. Neither the county court nor the

138 judge of the circuit court shall assent and approve the

139 appointment of such local conservator until such pub-

140 lication has been made. The costs of the publication

141 shall be paid by the person or persons petitioning for the

142 appointment of the conservator.

143 No local conservator shall be appointed except it be

144 made to appear to the satisfaction of the county court

145 and the judge of the circuit court that because of the lack

146 of sufficient funds, geographical location of the unincor-

147 porated community for which such conservator is to be

148 appointed, or other good reason, the sheriff and his reg-

149 ular deputies and the constables of the county are not

150 sufficient to afford proper local policing of such commu-

151 nity and that the person or persons moving for the ap-

152 pointment of such local conservator have made satisfac-
tory arrangements to compensate him for his services as such local conservator of the peace.

(3) Such local conservator of the peace shall have all the powers and duties of a regularly appointed deputy sheriff except that he shall not execute any civil process except such process as may be necessary to bring parties before the court in any action at law or suit in equity and subpoenas for witnesses within the unincorporated community for which he is appointed and within a distance of one mile outside the boundaries thereof, except as hereinafter expressly provided, but he shall not participate in any strike, unemployment boycott, or other industrial or labor dispute, nor serve any court process of any character relating thereto. He shall act as such local conservator only in the unincorporated community for which he is appointed, and within a distance of one mile from the boundaries thereof as fixed by the county court: Provided, however, That the authority of one local conservator shall not extend into any other unincorporated community for which another local conservator is appointed and acting, except as otherwise expressly provided by clause (6) of this paragraph, except that in fresh pursuit he may affect arrests anywhere in the county. He may also exercise the powers of a regularly appointed deputy anywhere in the county when required to guard or assist in guarding a payroll, or any other property of value in transit to or from the unincorporated community for which he is appointed. Any person arrested by such local conservator shall, with all convenient speed, be turned over to the sheriff, or one of his regular deputies, or to a regular constable of the county to be dealt with according to law, and his authority for that purpose shall be co-extensive with the county.

(4) Any local conservator appointed to perform the duties of conservator of the peace shall be a public officer and the payment, or contribution to the payment of compensation of such local conservator shall not constitute the person, firm or corporation making such payment or contribution the employer of such local conservator and no person, firm or corporation paying, or contributing to the payment of compensation to such local
conservator shall be answerable in law or in equity for any damages to person or property resulting from any official act of such local conservator.

(5) No person appointed such local conservator shall thereby be entitled to carry weapons, but such local conservator may carry weapons when he shall be duly licensed and shall have given bond as provided by section two, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one.

(6) Not more than one local conservator of the peace shall be appointed, to perform the duties of conservator of the peace, for each two thousand five hundred inhabitants of the county as ascertained by the last regular decennial census after deducting the number of inhabitants of the county residing in the incorporated cities, towns and villages in such county. Not more than one local conservator shall be appointed for any unincorporated community unless the population thereof exceed fifteen hundred people and in such case not more than two conservators shall be appointed for such community.

(7) The phrase "unincorporated community" within the meaning of this section shall mean any center of population wherein three hundred or more persons reside within an area of not more than one square mile.

(8) The county court and the judge of the circuit court in approving the appointment of a local conservator shall enter of record an order making such appointment and shall show therein the necessity for the appointment, the persons or persons on whose motion the appointment is made, the arrangement for the payment of compensation to such local conservator, the unincorporated community, or communities, for which the appointment is made, including the general boundary of each unincorporated community for which he is appointed.

(9) No local conservator shall act as an election official or remain in, about or near any voting place or place of political convention, further than is necessary for him to promptly cast his vote and retire from the voting place.
234  (10) Any local conservator violating any of the pro-
235 visions of clauses (3) and (9) of this paragraph shall
236 be guilty of a misdemeanor and, upon conviction thereof,
237 shall be fined not less than fifty dollars nor more than
238 three hundred dollars, or be confined in the county jail
239 not more than six months, or both, in the discretion of
240 the court; and it shall be the duty of the sheriff and the
241 county court to forthwith revoke his appointment irre-
242 spective of any criminal prosecution. A proceeding in
243 mandamus or injunction shall lie in the circuit court
244 and a proceeding in mandamus shall lie in the supreme
245 court of appeals at the instance of the prosecuting at-
246 torney, the attorney general, or of any three or more
247 citizens of the community for which such conservator is
248 appointed, to require the performance of such duty by
249 the sheriff and the county court.
250  (11) Such local conservator shall serve during the
251 joint will and pleasure of the sheriff and the county court
252 and his appointment may be revoked by order entered
253 of record by the county court either with or without the
254 assignment of cause therefor.
255 A local conservator may be removed by the judge of
256 the circuit court, either in term or vacation, for drunk-
257 eness, gross immorality, incompetence, neglect of duty,
258 or other good cause, upon the petition of three or more
259 residents of the community for which he has been ap-
260 pointed. The petition shall set forth the cause or causes
261 for which such removal is asked and shall show that de-
262 mand for removal has been made of the sheriff and the
263 county court and that the sheriff and the county court
264 have failed to remove the local conservator. At least
265 three copies of the petition shall be filed, and upon the
266 filing of the petition the judge shall fix a time and place
267 for a hearing thereon, which time shall not be less than
268 ten days after the filing of the petition, and shall cause
269 a copy thereof to be served upon the sheriff and such
270 local conservator at least ten days before the hearing
271 thereon.
CHAPTER 7. COUNTY COURTS AND OFFICERS.

ARTICLE 1. COUNTY COURTS GENERALLY.

§7-1-3a. Powers with respect to construction of waterworks, sewers, sewage disposal plants, improvement of streets, alleys and sidewalks and the assessment of the cost of sanitary sewers and improved streets.

In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to install, construct, repair, maintain and operate waterworks, water mains, sewer lines and sewage disposal plants in connection therewith within their respective counties:

Provided, That the county court of Webster is authorized to expend county funds in the opening of, and upkeep of, a sulphur well now situate on county property:

Provided, That such authority and power herein conferred upon county courts shall not extend into the territory within any municipal corporation:

Provided, however, That any county court is hereby authorized to enter into contracts or agreements with any municipality within the county, or with a municipality in an adjoining county, with reference to the exercise of the powers vested in such courts by this section.

In addition to the foregoing, the county court shall have the power to improve streets, sidewalks and alleys and lay sewers as follows: Upon petition in writing duly verified, of the persons, firms or corporations owning not less than sixty per cent of the frontage of the lots abutting on both sides of any street or alley, between any two cross-streets, or between a cross-street and an alley in any unincorporated community, requesting the county court so to do according to plans and specifications submitted with such petition and offering to have their property so abutting assessed not only with their portion of the cost of such improvement abutting upon their respective properties, but also offering to have their said properties proportionately assessed with the total cost of paving, grading and curbing the intersections of such streets and alleys, the county court may cause any such street or alley to be improved or paved or repaved substantially with the materials and accord-
Provided, however, that the county court is further authorized, if the said county court so determines by a unanimous vote of its constituted membership, that two or more intersecting streets, sidewalks, alleys and sewers, should be improved as one project, in order to satisfy peculiar problems resulting from access as well as drainage problems, then, in that event, the said county court may order such improvements as one single unit and project, upon petition in writing duly verified of the persons, firms or corporations owning not less than sixty per cent of the frontage of the lots abutting on both sides of all streets or alleys, or portions thereof included by said county court in said unit and project.

The total cost including labor and materials, engineering, and legal service of grading and paving, curbing, improving any such street or alley (including the cost of the intersections) and assessing the cost thereof shall be borne by the owners of the land abutting upon such street or alley when the work is completed and accepted according to the following plan, that is to say, payment is to be made by all landowners on either side of such street or alley so paved or improved, in such proportion of the total cost as the frontage in feet of each owner's land so abutting bears to the total frontage of all the land so abutting on such street or alley, so paved or improved as aforesaid, which computation shall be made by the county engineer or surveyor and certified by him to the clerk of said court.

Upon petition in writing duly verified, of the persons, firms or corporations owning not less than sixty per cent of the frontage of the lots abutting on one side of any street between any two cross-streets or between a cross-street and an alley in any unincorporated community requesting the county court so to do according to plans and specifications submitted with such petition and offering to have their property so abutting assessed with the total cost thereof, the county court may cause any sidewalk to be improved, or paved, or repaved, substantially with such materials according to such plans and specifications and the total cost in-
including labor and materials, engineering and legal service of improving, grading, paving, or repaving such sidewalk and assessing the cost thereof shall, when the work is completed and accepted, be assessed against the owners of the lots or fractional part of lots abutting on such sidewalk, in such portion of the total cost as the frontage in feet of each owner's land so abutting bears to the total frontage of all lots so abutting on such sidewalk so paved or improved, as aforesaid, which computation shall be made by the county engineer or surveyor and certified by him to the clerk of said court.

Upon petition in writing duly verified, of the persons, firms or corporations owning not less than sixty per cent of the frontage of the lots abutting on both sides of any street or alley, in any unincorporated community requesting the county court so to do according to plans and specifications submitted with such petition and offering to have their property so abutting assessed with the cost, as hereinafter provided, the county court may lay and construct sanitary sewers in any street or alley with such materials and substantially according to such plans and specifications and when such sewer is completed and accepted, the county engineer or surveyor shall report to the county court, in writing, the total cost of such sewer and a description of the lots and lands, as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: The total cost of constructing and laying the sewer including labor, materials, legal and engineering services shall be borne by the owners of the land abutting upon the streets and alleys, in which the sewer is laid according to the following plan: Payment is to be made by each landowner on either side of such portion of a street or alley in which such sewer is laid, in such proportions as the frontage of his land upon said street or alley bears to the total frontage of all lots so abutting on such street or alley. In case of a corner lot, frontage is to be measured along the longest dimensions thereof abutting on such street or
alley in which such sewer is laid. Any lot having a depth of two hundred feet or more, and fronting on two streets, or alleys, one in the front and one in the rear of said lot, shall be assessed on both of said streets or alleys if a sewer is laid in both such streets and alleys. Where a corner lot has been assessed on the end it shall not be assessed on the side for the same sewer and where it has been assessed on the side it shall not be assessed on the end for the same sewer.

If the petitioners request the improvement of any such street, alley or sidewalk in a manner which does not require the permanent paving or repaving thereof, the county court shall likewise have authority to improve such street, alley or sidewalk, substantially as requested in such petition, and the total cost thereof including labor, materials, engineering and legal services shall be assessed against the abutting owners in the proportion which the frontage of their lots abutting upon such street, alley or sidewalk bears to the total frontage of all lots abutting upon such street, alley or sidewalk, so improved.

Upon the filing of such petition and before work is begun, or let to contract, the county court shall fix a time and place for hearing protests and shall require the petitioners to post notice of such hearing in at least two conspicuous places on the street, alley or sidewalk affected, and to give notice thereof by publication of such notice as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the improvement is to be made. The hearing shall be held not less than ten nor more than thirty days after the filing of such petition.

At the time and place set for hearing protests the county court may examine witnesses and consider other evidence to show that said petition was filed in good faith; that the signatures thereto are genuine; and that the proposed improvement, paving, repaving, or sewer-
34

erty abutting on said street, alley or sidewalk in an amount at least equal in value to the cost thereof. The court shall within ten days thereafter enter a formal order stating its decision and if the petition be granted shall proceed after due advertisement, reserving the right to reject any or all bids, to let a contract for such work and materials to the lowest responsible bidder.

Any owner of property abutting upon said street, alley or sidewalk aggrieved by such order shall have the right to review the same on the record made before the county court by filing within ten days after the entry of such order, a petition with the clerk of the circuit court assigning errors and giving bond in a penalty to be fixed by the circuit court to pay any costs or expenses incurred upon such appeal should the order of the county court be affirmed. The circuit court shall proceed to review the matter as in other cases of appeal from the county court.

All assessments made under this section shall be certified to the county clerk and recorded in a proper trust deed book and indexed in the name of the owner of any lot or fractional part of a lot so assessed. The assessment so made shall be a lien on the property liable therefor, and shall have priority over all other liens except those for taxes, and may be enforced by a civil action in the name of the contractor performing the work in the same manner as provided for other liens for permanent improvements. Such assessment shall be paid in not more than ten equal annual installments, bearing interest at the rate of six per cent per annum as follows: The first installment, together with interest on the whole assessment, shall be paid not later than one year from the date of such assessment, and a like installment with interest on the whole amount remaining unpaid each year thereafter until the principal and all interest shall have been paid in full.

The county court may issue coupon-bearing certificates payable in not more than ten equal annual installments for the amount of such assessment and the interest thereon, to be paid by the owner of any lot
or fractional part thereof, fronting on such street, alley or sidewalk which has been improved, paved, or repaved or in which a sewer has been laid, as aforesaid, and the holder of said certificate shall have a lien having priority over all other liens except those for taxes upon the lot or part of lot fronting on such street, alley or sidewalk, and such certificate shall likewise draw interest from the date of assessment at the rate of six per cent per annum, and payment thereof may be enforced in the name of the holder of said certificate by proper civil action in any court having jurisdiction to enforce such lien.

Certificates authorized under this section may be issued, sold or negotiated to the contractor doing the work, or to his assignee, or to any person, firm, or corporation: Provided, That the county court in issuing such certificates shall not be held as a guarantor, or in any way liable for the payment thereof. Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one or more of said installments, when due, said default continuing for a period of sixty days, all unpaid installments shall thereupon become due and payable, and the owner of said certificates may proceed to collect the unpaid balance thereof in the manner hereinbefore provided.

In all cases where petitioners request paving or repaving, or the laying of sewers under the provisions of this section, the county court shall let the work of grading, paving, curbing or sewer ing to contract to the lowest responsible bidder. In each such case the county court shall require a bond in the penalty of the contract price guaranteeing the faithful performance of the work and each such contract shall require the contractor to repair any defects due to defective workmanship or materials discovered within one year after the completion of the work.

Upon presentation to the clerk of the county court of the certificates evidencing the lien, duly cancelled and marked paid by the holder thereof, or evidence of payment of the assessment if not certificates have been issued, said clerk shall execute and acknowledge a
release of the lien which release may be recorded, as
other releases in the office of the clerk of the
county court.

The owner of any lot or fractional part of a lot
abutting upon such street, alley or sidewalk so improved,
paved, repaved or sewered shall have the right to an-
ticipate the payment of any such assessment or certifi-
cate by paying the principal amount due, with interest
accrued thereon to date of payment, and also to pay
the entire amount, without interest at any time,
within thirty days following the date of the as-

Nothing in this section contained shall be construed
to authorize the county courts of the various counties
to acquire any road construction, ditching, or paving
equipment. The county courts are hereby authorized
to rent from the state road commissioner or any other
person, firm or corporation such equipment as may be
necessary from time to time, to improve any street or
sidewalk which petitioners do not desire to have paved
in a permanent manner, and for such purpose to
employ such labor as may be necessary but no
expense connected therewith shall be charged to
any county funds.

No county court shall be under any duty after the
paving, repaving or improvement of any street, alley or
sidewalk or the laying of any sanitary sewer under
the provisions of this section, to maintain or repair
the same, but any such court shall have authority upon
petition duly verified, signed by at least sixty per cent
of the owners of property abutting upon any improve-
ment made under this section, to maintain or repair
such improvement or sewer and to assess the cost thereof
against the owners of such abutting property in the
same manner as the cost of the original improvement.

§7-1-3h. Authority and procedure for closing unused roads,
streets and travel ways; notice and hearing; rights of
landowners.

The county court of any county, upon the verified ap-
application of any landowner whose land abuts on any
unused road, street, or other travel way designated on
any map or plat of a subdivision of land or otherwise within such county but outside of incorporated towns or cities thereof, is hereby authorized to close and vacate any part or all of any such unused road, street or other designated travel way by order entered of record after hearing as hereinafter provided. Before acting to close and vacate any such road, street or travel way, the county court shall consider the application and shall fix a time and place for hearing on such application. Such hearing shall be held not less than fifteen days after the hearing date and place have been so fixed. The applicant shall cause notice of the time and place of such hearing and the purpose thereof to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The notice shall be published at least fifteen days before such hearing. The applicant shall also cause to be served, at least fifteen days before such hearing, in the manner provided by law for the service of notices and process, a notice showing the time, place and purpose of such hearing, upon every owner of property, and every person holding a lien thereon, abutting on such unused road, street or other travel way. The affidavit of publication of such notice shall be filed with the county court at or before the hearing as a part of the record in the proceedings.

At the time and place fixed for the hearing, the county court shall hear any evidence relating to the use of and rights or claims in or to any such road, street or other designated travel way sought to be closed and vacated. If the county court concludes and finds upon the record and evidence in the proceedings that the use and rights of no person or persons in such road, street or other travel way will be impaired or lost by the closing and vacation thereof, the county court shall proceed to enter an order closing and vacating such road, street or other travel way and shall cause a copy of said order to be prepared and certified for entry of record in the office of the clerk of such county court. The applicant shall pay the recording fee thereon.
Any person aggrieved by the action of the county court in any such case may seek review thereof in the circuit court of the county as provided in article three of chapter fifty-eight of this code.

ARTICLE 2. COUNTY AND DISTRICT BOUNDARIES; CHANGE OF COUNTY SEAT AND NAMES OF UNINCORPORATED TOWNS AND OF DISTRICTS.

§7-2-4. Change of name of unincorporated town or of district; petition; notice.

When the people of any town or village not incorporated, or of a district in a county, are desirous to change the name of such town, village or district, they may petition the county court, or other tribunal established in lieu thereof, of the county wherein such town, village or district is sitauted; and if it appear to such court or other tribunal that a majority of the actual resident voters of such town, village or district is in favor of such change, it shall cause the following described notice to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the town, village or district, as the case may be. The notice shall be published at least thirty days prior to the sitting of such court or tribunal. The notice shall state the fact that a petition has been presented to the court or tribunal by the people of such town, village or district, praying for such change, and that unless those interested in the change appear at the next term, or such term as the court or tribunal may designate, and show cause why such change should not be made, there will be an order rendered granting such change, which notice shall be signed by the president of the court or tribunal.

ARTICLE 3. COUNTY PROPERTY.

§7-3-3. Sale of county or district property.

In all instances where the county court of a county is by law authorized to sell or dispose of any property, either real or personal, belonging to the county or held by it for the use of any district thereof, the same shall
be sold at public auction, at the front door of the court-
house of the county, and such sale shall be conducted by
president of the county court, but before making any
such sale, notice of the time, terms and place of sale,
together with a brief description of the property to be
sold, shall be published as a Class II legal advertisement
in compliance with the provisions of article three, chap-
ter fifty-nine of this code, and the publication area for
such publication shall be the county: Provided, however,
That this section shall not apply to the sale of any one
item of property of less value than one thousand dollars:
Provided, further, That the provisions of this section
concerning sale at public auction shall not apply to a
county court selling or disposing of its property for a
public use to the United States of America, its instru-
mentalities, agencies or political subdivisions or to the
state of West Virginia, or its political subdivisions, in-
cluding county boards of education, for an adequate con-
sideration without considering alone the present com-
mercial or market value of the property.

ARTICLE 5. FISCAL AFFAIRS.
§7-5-16. Preparation, publication, and disposition of financial
statements by county courts.

The county court of every county, within four weeks
after the first session held after the beginning of each
fiscal year, shall prepare on a form to be prescribed
by the state tax commissioner, and cause to be published
a statement revealing (a) the receipts and expenditures
of the county during the previous fiscal year arranged
under descriptive headings, (b) the name of each firm,
corporation, and person who received more than fifty
dollars from any fund during the previous fiscal year,
together with the amount received and the purpose for
which paid, and (c) all debts of the county, the purpose
for which each debt was contracted, its due date, and
to what date the interest thereon has been paid. Such
statement shall be published as a Class I-0 legal advertise-
ment in compliance with the provisions of article three,
chapter fifty-nine of this code, and the publication area
for such publication shall be the county
The county court shall transmit to any resident of the county requesting the same a copy of the published statement for the fiscal year designated, supplemented by a list of the names of each firm, corporation, and person who received less than fifty dollars from any fund during such fiscal year showing the amount paid to each and the purpose for which paid.

If a county court wilfully fail or refuse to perform the duties hereinbefore named, every member of such court, concurring in such failure or refusal, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than one hundred dollars; and the prosecuting attorney of any such county shall, when such failure or refusal shall come to his knowledge, immediately present the evidence thereof to the grand jury if in session, and if not in session, he shall institute proper criminal proceedings before a justice against any such offender, and cause such failure or refusal to be investigated by the next succeeding grand jury.

ARTICLE 8. JAIL AND JAILER.

§7-8-7. Jail physician; clothing for indigent prisoners.

The county court for every county may appoint a physician to attend all persons confined in jail as lunatics, or persons charged with felony or misdemeanor, and such physician shall furnish all medicines and drugs for, and give proper attention to, all such persons at a stipulated, fixed and exclusive annual allowance. The appointment of such physician shall be made in open court. The court, or president thereof in vacation, shall cause notice of the days during court when sealed bids will be received to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The bids shall be opened only in court, on the day specified in the notice, if the court then be in session, and, if not, on the first day of the session thereafter, and the appointment awarded to the lowest responsible bidder; and such court shall have the right to reject any or all bids. The person re-
ceiving the appointment shall give bond with sufficient
surety, to be approved by the court, for the faithful
performance of the trust and agreement. The court shall
have power to vacate the appointment for failure or
neglect of duty; but such vacation shall in no manner
affect the liability on the bond. All of the proceedings
shall be entered in the order book of the court. The
county court may also, after examination, when a per-
son in its jail charged with or convicted of an offense
is unable to provide himself with sufficient clothing,
direct the jailer to provide him clothing, and allow there-
for not exceeding twenty dollars in one year. Allowances
under this section, on being certified by the court, shall
be paid out of the county treasury.

ARTICLE 9. COUNTY AND CITY WORKHOUSES.
§7-9-10. Accounts and reports.

1 The accounts of the institutions shall be annually closed
2 and balanced on the first Monday of January in each
3 year. And full reports of the preceding year shall then
4 be made and submitted to the city council and county
5 commissioners, which shall be published as a Class I
6 legal advertisement in compliance with the provisions of
7 article three, chapter fifty-nine of this code, and the pub-
8 lication area for such publication shall be the county; and
9 the city council and county commissioners, or either of
10 such bodies, may require such other reports and exhibits
11 of the condition and management of such institution as
12 they may deem proper.

ARTICLE 12. COUNTY DEVELOPMENT AUTHORITIES.
§7-12-12. Contributions by county courts, municipalities and
others; funds and accounts; reports; audits and ex-
amination of books, records and accounts.

1 Contributions may be made to the authority from time
2 to time by the county court of the county or any munici-
3 pal corporation therein, and by any persons, firms or cor-
4 porations which shall desire to do so. All such funds and
5 all other funds received by the authority shall be de-
6 posited in such bank or banks as the authority may direct
7 and shall be withdrawn therefrom in such manner as the
8 authority may direct. The authority shall keep strict
account of all its receipts and expenditures and shall each
quarter make a quarterly report to the county court and
municipalities containing an itemized statement of its
receipts and disbursements during the preceding quar-
ter. Within sixty days after the end of each fiscal year,
the authority shall make an annual report containing an
itemized statement of its receipts and disbursements for
the preceding year, and such annual report shall be pub-
lished as a Class I legal advertisement in compliance with
the provisions of article three, chapter fifty-nine of this
code, and the publication area for such publication shall
be the county in which the county development author-
ity is located. The books, records and accounts of the
authority shall be subject to audit and examination by
the office of the state tax commissioner of West Vir-
ginia and by any other proper public official or body in
the manner provided by law.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 2. CREATION, ALTERATION, DISSOLUTION AND
POWERS OF MUNICIPAL CORPORATIONS.

§8-2-3. Hearing on petition; notice; dismissal.
1 Upon the filing of such petition, the county court shall
2 set the same for hearing not sooner than ten days and
3 not later than thirty days thereafter, and petitioners shall
4 cause notice of the filing of said petition and of the time
5 and place of hearing thereon, to be published as a Class
6 II legal advertisement in compliance with the provisions
7 of article three, chapter fifty-nine of this code, and the
8 publication area for such publication shall be the terri-
9 tory sought to be incorporated.
10 Upon the day set for hearing, the county court shall
11 hear evidence for and against the proposed incorpora-
12 tion, and if it shall determine that the requirements of
13 sections one and two of this article have not been met,
14 it shall forthwith enter an order dismissing said peti-
15 tion.

§8-2-5. Election; voting precincts; time for; supplies.
1 Upon receiving such report of said enumerators, the
2 county court shall forthwith fix a day, not later than
thirty days thereafter, on which all qualified electors residing within the territory shall vote upon the question of incorporation between such hours as may be fixed by order of said court. For the purpose of conducting said election, the county court shall divide the territory into one or more precincts, consisting of not more than five hundred qualified voters in each precinct; shall arrange for and provide at its expense polling places, registration books, challenges and other election supplies as provided for by law in general elections, and shall appoint three commissioners of election and two clerks from the qualified electors of said territory for each precinct so established dividing the election officials as nearly as possible equally between those favoring incorporation and those opposed to incorporation, and shall give notice of the day and place of election by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the territory sought to be incorporated.

§8-2-15. Same—Hearings and notice.

When it shall have completed its draft of charter, a charter board shall conduct a public hearing thereon. Notice of the time, place and purpose of the hearing shall be given by publication of such notice at least ten days prior to the date set for the hearing as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the territory to be incorporated. The notice shall state where copies of the draft of charter may be obtained. The hearing may be continued by the charter board by adjournments over a period not exceeding fourteen days.

§8-2-17. Same—Election; voters; time.

The proposed charter shall be submitted to the voters for approval at a special election to be held not less than thirty days nor more than ninety days following filing of the completed charter with the clerk of the county court, at which election the officers provided by said
charter shall be voted upon in the manner provided by
said charter. Notice of the time, place and purpose of a
charter election shall be given by publication of such
notice as a Class II-0 legal advertisement in compliance
with the provisions of article three, chapter fifty-nine
of this code, and the publication area for such publica-
tion shall be the territory incorporated. The first of said
publications shall be made not less than thirty days prior
to the date fixed for the election. Each such notice of
election shall state that any qualified voter of said terri-
tory may obtain a copy of the proposed charter, from a
designated person and place, upon request.

ARTICLE 3. ELECTION, APPOINTMENT AND QUALIFICATION
OF OFFICERS.

§8-3-2. When first election held; notice.
1 The first election for officers of such corporation shall
2 be held within sixty days from the date of the certificate
3 mentioned in section eleven, article two of this chap-
ter, and the commissioners of election appointed at the
time of such order shall cause notice to be given of the
time and place of holding such election, which notice
7 shall specify the officers to be voted for, and shall be
8 published, within fourteen consecutive days next pre-
ceding the day appointed for such election, as a Class II-0
9 legal advertisement in compliance with the provisions of
10 article three, chapter fifty-nine of this code, and the pub-
11 lication area for such publication shall be such town.

ARTICLE 4. POWERS, DUTIES AND ALLIED RELATIONS OF
MUNICIPAL CORPORATIONS, COUNCILS OR OFFI-
CERS.

§8-4-10j. Adoption of ordinances; notice and procedure.
1 Except as hereinafter provided in this section, and not-
2 withstanding the provisions of any existing municipal
3 charter, it shall not be necessary for the governing body
4 of a city to publish a proposed ordinance in a newspaper
5 prior to adoption thereof. In case of a proposed ordi-
6 nance to codify, reenact or enact a comprehensive code
7 of ordinances, or in case of a proposed ordinance having
8 as its principal object the raising of revenue for the city,
9 said governing body shall, at least five days before the
meeting at which said ordinance is to be finally adopted, cause the following described notice of the proposed adoption to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the city. The notice shall state the general title or titles of said ordinance, the time and place of the proposed final adoption, and the place or places where, within the city, the entire ordinance will be available for public inspection; a reasonable number of copies of the proposed ordinance shall be kept at such place and be made available for public inspection.

§8-4-14. Power of council or county court to grant franchises; notice; term of franchise.

No franchise shall hereafter be granted by the county court of any county, or other tribunal acting in lieu thereof, or by the council of any town incorporated under the laws of this state where the application for such franchise has not been filed, with the clerk of such court or council, at least thirty days prior to the time when it is to be acted upon by such county court or council, and where notice of such application, stating the object of such franchise, has not been given by publication thereof as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, for which publication the publication area shall be the county or town, as the case may be, wherein such franchise is to be granted. Nor shall such franchise be granted within thirty days after the application has been filed, nor until an opportunity has been given any citizen or corporation interested in the granting or refusing of such franchise to be heard. Nor shall any franchise hereafter be granted by any county court, or other tribunal acting in lieu thereof, or by any council of any such town, for a longer term than fifty years: Provided, however, That nothing in this section shall prevent the renewal of any such franchise for a term not exceeding fifty years, when the same shall have expired. No franchise hereafter granted for any longer term than fifty years shall be of any force or validity.
§8-4-20. Special charges for municipal services.

1 The governing authority of every municipal corporation that furnishes any essential or special municipal service, including police and fire protection, parking facilities on the streets or otherwise, recreational facilities, street cleaning, street lighting, sewerage and sewage disposal, and the collection and disposal of garbage, ashes or other waste materials, may by ordinance provide for the continuance, maintenance, installation or improvement of such service, may make reasonable regulations with respect thereto, may impose upon the users of such service reasonable rates, fees and charges to be collected in the same manner as municipal taxes are collected or in some other manner specified in the ordinance, and may provide penalties for any violation of such ordinance. The municipal corporation shall not, however, have a lien on any property as security for payments due under such ordinance: Provided, however, That any ordinance enacted under the provisions of this section shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such municipality. In the event thirty per cent of the registered voters by written petition duly signed by them and filed with the municipal authority within fifteen days after the expiration of such publishing protest against such ordinance, the ordinance shall not become effective until it shall be ratified by a majority of the votes cast by the duly qualified voters of such municipality at an election duly and regularly held as provided by the laws and ordinances of the municipality and the result of such election ascertained and declared. Such election shall be held after notice of such submission shall be given by publication as above provided for the publication of the ordinance when adopted. The powers hereby given to such municipalities and to the authorities thereof are in addition to and supplemental of the powers named in the respective charters thereof: Provided, That in the event fees and charges herein provided for, shall
be imposed by the governing body of any municipal
corporation for the purpose of, and in amounts approxi-
mately sufficient, to replace in its general fund such
amounts as shall be appropriated to be paid out of ad
valorem taxes upon property within the municipality
pursuant to an election duly called and held under the
constitution and laws of the state to authorize the
issuance and sale of general obligation bonds of the
municipality for public improvement purposes, in the
call for which election it shall be stated that the
governing body of the municipality proposes to impose
fees and charges in specified amounts under this section
for the use of one or more of the services above specified,
which shall be related to the public improvement
proposed to be made with the proceeds of the bonds,
no notice, publication of notice, or referendum or
election or other condition or prerequisite to the imposi-
tion of such rates shall be required or necessary other
than the legal requirements for issuance and sale of
such general obligation bonds.
§8-4-21. Sale or lease of municipal public utility.
1 In any case where a town shall own a water-works
system, electric light plant or other public utility, and
the council thereof shall deem it for the best interest
of such town that such utility be sold, leased or rented,
it shall be lawful for the council, by ordinance legally
passed, to submit to the legal voters of such muni-
ciity, at any regular election or at any special election
called for that purpose, the question of making such
sale, lease or renting. In such case the council shall,
in the ordinance submitting such question to a vote,
set forth in full the terms of such proposed sale, lease
or renting, the name of the proposed purchaser or lessee,
the date of such election, and such ordinance shall be
published as a Class II-0 legal advertisement in compli-
ance with the provisions of article three, chapter fifty-
nine of this code, and the publication area for such pub-
lication shall be such town. Such election shall be held
in all respects in compliance with the provisions of
chapter three of this code, so far as the same are appli-
cable and not inconsistent herewith. If a majority of
the votes cast at such election upon such question be
in favor of the proposed sale, lease or renting of such
utility, the council, upon the ascertainment of the result
of such election, shall have full power and authority
to proceed to execute such sale, lease or renting in
accordance with the terms and conditions prescribed
in the ordinance aforesaid, and shall have power to
do any and all things necessary or incident thereto:
Provided, however, That if at any time after such elec-
tion and before the execution of the authority under
the ordinance, any person, firm or corporation should
present to the council and offer to buy such public utility
or plant at a greater price than the sale price which
shall have been so voted upon and authorized or to
lease the same upon terms which the council, in its
discretion, shall consider more advantageous to the
municipality than the terms of the lease which shall
have been authorized by vote as aforesaid, the council
shall have the power to accept such subsequent offer,
and to make such sale or such lease to the person making
the offer, without resubmitting the question to a vote.
But, if a sale shall have been authorized by vote as
aforesaid, and such subsequent proposition be for a
lease, or, if a lease shall have been so authorized, and
the subsequent proposition shall be for a sale, the
council shall have no power to accept the same with-
out submitting the question thereof to a vote of the
people as first above provided. And before any such
second or subsequent proposition shall be submitted to
vote, after a sale or lease shall have been author-
ized at an election held hereunder, the person making
such proposition shall execute bond with security to
be approved by the council, in a penalty of not less
than twenty-five per cent of such proposed bid, con-
ditioned to carry such proposition into execution, if the
same shall be approved at the election to be called
thereon. In any case where such public utility as is
mentioned in this section shall be sold, leased, or rented
by the council as hereinabove provided, no part of the
moneys derived from such sale, lease or renting shall
be applied to the payment of current expenses of
the municipality; but the proceeds of such sale or lease
shall be applied in payment and discharge of any bonded
indebtedness created in respect to such public utility;
and in case there be no such bonded indebtedness, the
council, in its discretion, shall have power to expend
all such moneys when received in the purchase or
construction of fire fighting equipment and buildings
for housing such equipment, a town hall, and the neces-
sary land upon which to locate the same, or in the con-
struction of paved streets, sidewalks, sewers and other
like permanent improvements, and for no other pur-
poses, or in case there be a surplus after the payment
of such bonded indebtedness, such surplus may be used
as aforesaid.

§8-4-27. Additional powers of municipal corporations.
1 On and after the effective date of this article every
2 municipal corporation in this state shall have all the
3 powers and authority conferred by article five, chapter
4 eight-a of this code upon home rule cities of the class
5 to which such municipal corporations belongs, accord-
6 ing to the classification of municipal corporations
7 prescribed in section four, article one, chapter eight-a
8 of this code: Provided, however, That prior to the
9 adoption of any ordinance or resolution under the
10 authority herein granted pertaining to taxes, the gov-
11 erning body of such municipality shall cause a notice
12 of such ordinance or resolution to be published as a
13 Class II-0 legal advertisement in compliance with the
14 provisions of article three, chapter fifty-nine of this
15 code, and the publication area for such publication shall
16 be such municipality. Such notice shall state the purpose
17 of the pending ordinance or resolution and the time,
18 place and body before which the same will be con-
19 sidered.

ARTICLE 4A. MUNICIPAL PUBLIC WORKS; BONDS.
§8-4A-6. Ordinance or resolution for construction, etc., of
works.
1 Before any municipality shall construct, acquire, im-
2 prove or extend any works under this article, the
3 municipal authorities shall enact an ordinance or ordi-
nances, or shall adopt a proper resolution which shall
(a) set forth a brief and general description of the works,
and if the same are to be constructed, a reference
to the preliminary report or plans and specifications
which shall theretofore have been prepared; (b) set
forth the estimated cost thereof; (c) order the con-
struction, acquisition, extension or improvement of
such works; (d) direct that revenue bonds of the
municipality be issued pursuant to this article, in such
amount as may be found necessary to pay the cost of
the works; and (e) contain such other provisions as
may be necessary or proper in the premises. Before
such ordinance shall become effective, it shall be pub-
lished as a Class II legal advertisement in compliance
with the provisions of article three, chapter fifty-nine
of this code, and the publication area for such publica-
tion shall be such municipality. Said notice shall
specify a time and place for a public hearing, the time
being not less than ten days after the first publication
of said notice at which time and place all parties and
interests may appear before the municipal authorities,
and may be heard as to whether or not said ordinance
shall be put into effect. At such hearing all objections
and suggestions shall be heard and the governing body
shall take such action as it shall deem proper in the
premise: Provided, however, That if at such hearing
written protest is filed by thirty per cent or more of
the owners of real estate situated in said municipality,
then the governing body of said municipality shall not
take further action unless four-fifths of the members of
said governing body assent thereto: Provided further,
That in case written protest is filed by thirty per cent
or more of owners of real estate as herein provided, the
governing body shall have authority to appoint a com-
mittee to consist of one proponent, one opponent and
the third to be selected by these two, to determine
whether or not thirty per cent of the property owners
have in fact protested and said committee shall report
its findings to the governing body.
§8-4A-17. Charges for services rendered by works.

1 Municipal authorities shall have the power and it shall be their duty, by ordinance or resolution, to establish and maintain just and equitable rates or charges for the use and services rendered, or the improvement or protection of property, provided or afforded by such works, to be paid by the person using the same, receiving the services thereof, or owning the property improved or protected thereby, and may readjust such rates or charges from time to time. Rates or charges heretofore or hereafter established and maintained for the improvement or protection of property, provided or afforded by a municipal flood control system, to be paid by the person owning the property improved or protected thereby, shall be collectible and enforceable from the time provided in such ordinance or resolution, any provision of this or any other law to the contrary notwithstanding, if, at such time, such works, though not yet fully constructed, are nearing completion and such municipal authorities are reasonably assured that such works will be completed and placed in operation without reasonable delay. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair, replacements and maintenance of the works, and for the payment of the sums herein required to be paid into the sinking fund.

27 Revenues collected pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing at which all the users of the works and/or owners of the 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 proposal of the ordinance or resolution fixing such rates or charges and before the same is finally enacted or passed, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publishing same as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the
publication area for such publication shall be such municipality. The first publication of said notice shall be at least ten days before the date fixed in such notice for the hearing, which hearing may be adjourned from time to time. No other or further notice to parties at interest shall be required. After such hearing the ordinance or resolution establishing rates or charges, either as originally proposed or introduced, or as modified and amended, shall be passed or adopted 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 board having charge of the operation of such works, and also in the office of the municipal authorities, 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 class of users or property thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of rates may be made in the same manner as such rates or charges were originally established as hereinabove provided. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repairs and maintenance, and for such sinking fund payments. If any service rate, charge or fee so established shall not be paid within thirty days after the same is due, the amount thereof may be recovered by the board in a civil action in the name of the municipality, and in the case of charges due for services rendered, such charges, if not paid when due, may, if council so provide in the ordinance provided for under section six of this article, constitute a lien upon the premises served by such works, which lien may be foreclosed against such lot, parcel of land or building served, in accordance with the laws relating to the foreclosure of liens on real property. Upon failure of any person receiving any such service to pay for same when due, the board may discontinue such service without notice.
ARTICLE 5. URBAN AND RURAL PLANNING AND ZONING.

1 Prior to the adoption of a comprehensive plan, the com-
2 mission shall give notice and hold a public hearing on the
3 plan and a proposed ordinance for its enforcement.
4 At least thirty days prior to the date set for hearing,
5 the commission shall publish a notice of the time and
6 place of the hearing as a Class I legal advertisement in
7 compliance with the provisions of article three, chapter
8 fifty-nine of this code, and the publication area for such
9 publication shall be the city or county, as the case may be.

§8-5-44. Same—Final report; notice and hearing; action.
1 After the final report has been submitted by the plan-
2 ning commission the governing body of a city or the
3 county court shall afford all interested persons an op-
4 portunity to be heard with reference to it at public hear-
5 ings convenient for all persons affected to be held at times
6 and places to be specified in notices to be published, with-
7 in fourteen consecutive days next preceding the time set
8 for the hearings, as a Class II legal advertisement in com-
9 pliance with the provisions of article three, chapter fifty-
10 nine of this code, and the publication area for such pub-
11 lication shall be the city or county, as the case may be.
12 The notices shall state the time and places of the hearings,
13 that the report contains a comprehensive zoning ordinance
14 for the city or county, that written objections to the final
15 report filed with the clerk of the governing body of a city
16 or with the county clerk at or before the hearings will be
17 heard and that the hearings will be continued from time
to time as may be found necessary. During the period
18 between the date of the first publication of the notice and
19 the date of the hearing, the final report shall be on file
20 in the office of the planning commission for public ex-
21 amination. Upon completion of the public hearings, the
22 governing body of a city or the county court shall proceed
23 to the consideration of the ordinance.

§8-5-48. Election on zoning ordinance; procedure.
1 If within sixty days following the approval of the zoning
2 ordinance by the county court or the governing body of
3 the city a petition is filed with the county clerk praying
for the submission of such zoning ordinance for approval
or rejection to the electors residing in the area within the
jurisdiction of the city or county planning commission,
such ordinance shall not take effect until the same shall
have been approved by a majority of the electors voting
in said election at any regular or special election called
for that purpose. The petition provided herein may be
in any number of counterparts and must be signed by a
number of registered voters residing in the area affected
by the proposed zoning equal to not less than fifteen per
cent of the total votes cast in the affected area for all
candidates for governor at the last preceding general
election at which a governor was elected. Only registered
voters residing in the area affected by the proposed
ordinance shall be eligible to vote in said election.

Upon the ballots cast at such election there shall be
written or printed the following:

☐ For zoning.
☐ Against zoning.

If a majority of the votes cast upon the question be for
zoning, the provisions of said zoning ordinance shall, upon
the day the results of such an election are declared, be
effective. If a majority of the votes cast be against zoning,
the question may again be submitted to a vote at any
regular election or election for officers in the manner
herein provided.

Elections for the purpose of voting upon the question
of zoning may be held at any general, primary or special
election which the governing body of a city or the county
court in its order submitting the same to a vote may
designate.

Notice of all zoning elections shall be given by publi-
cation of the order calling such election as a Class II-O
legal advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the pub-
lication area for such publication shall be the area in
which the election is to be held.

Elections shall be held at the voting precincts estab-
lished for holding general elections. All the provisions
of the general election laws of this state concerning gen-
eral, primary or special elections, when not in conflict
with the provisions of this article, shall apply to elections hereunder, insofar as practicable.

ARTICLE 7. TAXATION AND FINANCE.

§8-7-7. Preparation, publication, and disposition of financial statements.

Every municipal corporation having a population of more than two thousand, within four weeks after the beginning of each fiscal year, shall prepare on a form to be prescribed by the state tax commissioner, and cause to be published a sworn statement revealing (a) the receipts and expenditures of the municipality during the previous fiscal year arranged under descriptive headings, (b) the name of each firm, corporation, and person who received more than fifty dollars from any fund during the previous fiscal year, together with the amount received and the purpose for which paid, and (c) all debts of the municipality, the purpose for which each debt was contracted, its due date, and to what date the interest thereon has been paid. Such statement shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality.

Every municipal corporation having a population of more than two thousand shall transmit to any resident of such municipality requesting the same a copy of any published statement for the fiscal year designated, supplemented by a list of the names of each firm, corporation, and person who received less than fifty dollars from any fund during such fiscal year showing the amount paid to each and the purpose for which paid.

Each municipal corporation having a population of two thousand or less, within four weeks after the beginning of each fiscal year, shall prepare on a form to be prescribed by the state tax commissioner a sworn statement revealing (a) the receipts and expenditures of the municipality during the previous fiscal year arranged under descriptive headings, (b) the name of each firm, corporation, and person who received money from any fund during the previous fiscal year, together with the amount received and the purpose for which paid, and (c) all debts of the municipality, the purpose for which each debt was...
contracted, its due date, and to what date the interest thereon has been paid.

Every municipal corporation subject to the provisions of the preceding paragraph shall transmit to any resident of such municipality requesting the same a copy of any such statement for the fiscal year designated.

The statement required under the first paragraph of this section and the statement required under the third paragraph of this section shall be sworn to by the recorder or clerk of the municipality and the mayor or other executive head thereof and two members of the governing body of such municipality. As soon as practicable following the close of the fiscal year, a copy of any statement herein required shall be filed by the municipality with the state tax commissioner, the clerk of the county court and the clerk of the circuit court. If the governing body fail or refuse to perform any of the duties set forth in this section, every member of such governing body and the recorder or clerk thereof concurring in such failure or refusal shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than one hundred dollars. If any of the provisions of this section are violated, it shall be the duty of the prosecuting attorney of the county in which such violations occur to immediately present the evidence thereof to the grand jury if in session, and if not in session, he shall cause such violations to be investigated by the next succeeding grand jury.

ARTICLE 7A. LOW COST IMPROVEMENTS.

§8-7A-8. Procedure when total cost to be apportioned among all abutters; notice to abutting owners before authorizing improvements; form of notice; protest meeting; certificate of publication; notice to railroad or foreign corporation; automatic revocation of grant of petition; charges upon automatic revocation.

If the petitioner has stated in the petition that he desires the total cost to be apportioned among all of the abutters, the council shall, as soon as the petition is granted, cause notice to be given to all abutters that the petition has been granted, that the engineer's
memorandum, certifying reasonable necessity, plans and specifications, and cost estimates, will be reconsidered, before work is started, at a public meeting of the council at a time and place named in the notice, and that all abutters will be given an opportunity to protest or be heard concerning any or all particulars of the engineer's memorandum at that meeting or an adjournment thereof.

The above-mentioned notice to the abutters may be by personal service on abutters at least ten days before the protest meeting. In lieu of personal service of such notice, the following described notice, or one in substantially the same form, may be given, and shall be deemed to have been served on all such abutters, by publication, within fourteen consecutive days next preceding said meeting, of the following notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such municipality:

"NOTICE TO ALL PERSONS OWNIN Property
ABUTTING ON _________ (here describe the portions of the streets, alleys, public ways or easements to be improved) IN THE MUNICIPALITY OF ____________ (name of municipality);

A petition has been conditionally granted by the ____________ (common council, board of directors, commissioners or other governing body) of the municipality of ____________ (name of municipality to improve the ____________ (street, alley, public way or easement) above described in ____________ (name of municipality) by ____________ (grading, regrading, constructing storm sewers or other general description of the proposed improvement), as specifically described in the engineer's memorandum certifying the reasonable necessity of the proposed improvement, the plans and specifications thereof, and the estimate of the items of cost thereof, and to apportion the cost of such improvement among the owners, as of ____________ (the date of the first publication of this notice), of the abutting property."
The engineer's memorandum above described will be reconsidered by the _________ (governing body) at a public meeting to be held on _________ (date) at _________ (time) at _________ (place). Any abutting owner or interested party will be given an opportunity to protest or be heard at said meeting or an adjournment thereof.

_________ (name of the clerk or recorder), ____________ (official position).

An affidavit of publication of the notice, made by the newspaper publisher, and a copy of the notice shall be made a part of the minutes of the governing body and spread on its records of the meeting described in the notice. The service of said notice upon all persons, firms or corporations owning any interest in any property abutting upon any portion of said street, alley, public way or easement to be improved shall conclusively be deemed to have been given when such newspaper publication shall have been completed: Provided, That where any foreign railroad or other foreign corporation is the owner of property abutting upon any street, alley, public way or easement sought to be improved under the provisions hereof, notice shall be given to such railroad or other foreign corporation as prescribed by section one, article ten, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, before the adoption of any ordinance or resolution relating to, and providing for, such improvements.

Any part or parts of the engineer's memorandum may be modified or remodeled at the protest meeting in accordance with the evidence introduced at such meeting, including the extent of the portions of the streets, alleys, public ways or easements proposed to be improved as designated in the engineer's memorandum. If, after modification at such protest meeting, the memorandum indicates that the proposed improvement is not reasonably necessary and/or that its estimated total cost is more than one thousand dollars, then the petition shall be automatically revoked; and the petitioner shall be charged with all municipal expense in connection therewith except salaries and wages of regular
municipal employees, which charge shall be made by ordinance or resolution of the council; and a statement of said charge shall be mailed to the petitioner at the address listed in the petition unless the petitioner shall have notified the council in writing of a change in his actual mailing address, in which case the statement shall be mailed according to such change.

If the engineer's memorandum has not been so modified at the protest meeting as to render the petition automatically revoked as provided above, the council shall order by ordinance or resolution the proper municipal authorities to proceed with the accomplishment of the improvement according to the plans and specifications in the engineer's memorandum, as modified at the protest meeting in the event that they were modified.

§8-7A-11. Apportionment among all abutters; limit on total cost chargeable to abutters; engineer's report; notice; hearings; correcting and laying assessments.

Where the petitioner has indicated in the petition his desire to have the total cost apportioned among all of the abutters, the engineer shall, as soon as the council has ordered the proper municipal authorities to proceed under section eight of this article, determine or cause to be determined the several frontages abutting on the improvement, a brief description thereof, and the owners of such frontages as of the date of the first publication of the notice described in section eight of this article; and he shall keep an account of all items of cost connected therewith that affect the total cost. As soon as the improvement is completed and the account mentioned in section nine of this article is given to him, the engineer shall compute the actual total cost of the improvement.

The total cost shall be personally borne by such abutters, including the petitioner, as of the date of the first publication of the notice described in section eight of this article; and the amount of the assessment against each shall be apportioned by the engineer on the basis of the following formula. Each lot or parcel of land so abutting shall be assessed with that portion of the total cost of the entire project which is represented by the pro-
portion which the abutting frontage in feet of such lot or
parcel bears to the total abutting frontage in feet of all
the lots or parcels of land abutting on the streets, public
ways, alleys or easements so improved: Provided, how-
ever, That if the character of the improvements shall be
substantially different upon different streets, public ways,
easements or alleys, or portions thereof, the cost may be
equitably apportioned to the respective streets, public ways,
easements, or portions thereof, in proportion to the character and cost of the improvements respectively
thereon; and as a part of the cost so apportioned to each
respective street, public way, easement, or alley, or portion
thereof, shall be apportioned to and assessed against the
respective lots or parcels of land abutting thereupon in
the proportion as hereinabove provided: Provided further,
That if any part of the street, alley, easement or public
way improved is used by a railway then the cost of the
portion of the improvements between the rails and for
two feet outside said rails shall be assessed against and
wholly borne by the owner of the railway: Provided
further, That if there be any land or other property abut-
ing on the portion of the street or alley so improved
which it has been determined by the governing body of
the municipality, and, shown in the ordinance or resolu-
tion authorizing the improvement, not to be specially
benefited by the improvement, or for other reasons would
not be liable to assessment for any of the cost of im-
provement, then the cost of the improvements abutting
such part of said street or alley, as is so determined to be
nonassessable shall be apportioned among, assessed and
borne by the remaining property abutting upon the por-
tion of the street, alley, public way or easement improved
in proportion to the frontage of such remaining abutting
property as hereinabove provided: Provided further, That
if such improvement includes the construction or recon-
struction of sidewalks on only one side of a street, alley,
public way or easement, then the cost of such sidewalk
shall be assessed only on the property abutting on that
side where the sidewalks are so constructed: Provided
further, That if there be land or other property abutting
the street, alley, easement or public way so improved
which is owned by the United States of America, and for
that reason not legally subject to assessment, then the
municipality shall pay the proportionate part of the cost
of the improvement which otherwise would be assessable
against such federally owned land or property: Provided

further, That if the actual total cost exceeds one thousand
dollars, the municipality shall be responsible for such
excess over one thousand dollars; and that, notwithstanding
that the actual total cost is less than one thousand
dollars, if the actual total cost exceeds the estimated
total cost by more than ten per cent of the latter, the
municipality shall be responsible for such excess over
one hundred ten per cent of the estimated total cost.

The engineer shall formulate a report showing the
chargeable total cost to be borne by the abutters, the
names of the abutters (including the petitioner), the sev-
eral frontages owned by said abutters and a brief descrip-
tion thereof, and the proper amount of the chargeable
total cost to be assessed personally against each abutter,
and shall deliver such report to the council. The council
shall thereupon give notice to the abutters to be assessed,
that, on or after a date named in said notice, an assess-
ment may be laid personally against the abutters so em-
bodyied in said report. Said notice shall state that the
abutters as named, or other interested party, may on said
date appear before the council to move the correction or
revision of such proposed assessment. Said notice shall
show the same facts embodied in the engineer's report
hereinabove described and shall be published as a Class
II legal advertisement in compliance with the provisions
of article three, chapter fifty-nine of this code, and the
publication area for such publication shall be the county
in which the municipality is located. On or after the
date so advertised, the council may revise, amend, cor-
rect and verify the report according to the evidence in-
roduced by appealing abutters or by the engineer, and
shall thereafter proceed by ordinance or resolution to lay
the assessments, as corrected and verified, against the
abutters personally.
ARTICLE 8. ASSESSMENTS TO IMPROVE STREETS, SIDEWALKS AND SEWERS.

§ 8-8-3. Notice to abutting owners before authorizing improvement; form of notice; certificate of publication; notice to railroad or foreign corporation.

Before the adoption of such resolution or ordinance of necessity or convenience, the governing body shall cause notice to be given to owners of abutting property that such resolution or ordinance will be considered before adoption at a public meeting of the governing body at a time and place named in the notice and all persons or corporations shall at that meeting, or an adjournment thereof, be given an opportunity to protest or be heard concerning the adoption or rejection of said resolution or ordinance. Such notice to owners of property abutting on the portion of the street, alley, public way or easement to be improved may be by personal service on owners at least ten days before said meeting. In lieu of personal service of such notice, the following described notice, or one in substantially the same form, may be given, and shall be deemed to have been served on all such owners of abutting property, by publication of such notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such municipality:

"NOTICE TO ALL PERSONS OR CORPORATIONS OWNING PROPERTY ABUTTING ON ________________________ (here describe the portion of the street, alley, public way or easement to be improved)
IN THE __________________________ (town or city) OF __________________________ (name of municipality).
Proposals have been made to the __________________________ (common council, board of directors, commissioners, or other governing body) of the __________________________ (town or city) of __________________________ (name of municipality) to permanently improve the portion of the street (alley, public way or easement) above described in __________________________ (name of municipality) by __________________________ (grading, paving, constructing sanitary or storm sewers, constructing sidewalks, or other general description of the pro-
posed improvements) as the .................................. (council, board of directors, commissioners, or other governing body) may deem proper, and to assess the cost of such improvements on the property abutting said portion of said street (alley, public way or easement).

The proposals to make such improvements, and the plans, specifications, profiles and estimates will be considered by the .................................. (governing body) at a public meeting to be held on the ............ day of ......... 19........., at ...... M. at ................................... Any abutting owner or interested party will be given an opportunity to protest or be heard at said meeting or an adjournment thereof.

An affidavit of publication of the notice, made by the newspaper publisher, and a copy of the notice shall be made a part of the minutes of the governing body and spread on its records of the meeting described in the notice. The service of said notice upon all persons, firms or corporations owning any interest in any property abutting upon any portion of said street, alley, public way or easement to be improved shall conclusively be deemed to have been given when such newspaper publication shall have been completed: Provided, That where any foreign railroad or other foreign corporation is the owner of property abutting upon any street, alley, public way or easement sought to be improved under the provisions hereof, notice shall be given to such railroad or other foreign corporation as prescribed by section one, article ten, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, before the adoption of any ordinance or resolution relating to, and providing for, such improvements.

§8-8-8. Report on completion; notice to abutting owners of assessments; hearing; correcting and laying assessments.

1 When the improvement of such street, alley, easement, or public way has been completed, the governing body shall cause the engineer, or other person charged by the governing body with the supervision of the work of im-
provement, to make a report showing the several frontages abutting thereon, and the total cost, and showing the respective amounts chargeable upon each lot or parcel of land assessed abutting thereon, and showing the proper amounts to be assessed against the respective abutting lots or parcels of land as provided herein, with a description of the abutting lots and lands as to ownership, frontage and location. The governing body of the municipality shall thereupon give notice to the owners of the property to be assessed that on or after a date named in said notice an assessment may be laid against the property so improved as embodied in said report. Said notice shall state that the owner or owners whose property is to be assessed, or other interested party, may on said date appear before the governing body to move the revision or correction of such proposed assessment. Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the municipality is located. The notice shall show the total cost of the improvement, the several frontages abutting thereon and the respective amounts to be assessed against the abutting property, with a description of the respective abutting lots and lands as to ownership, frontage and location. On or after the date so advertised, the governing body may revise, amend, correct and verify the report and proceed by resolution or ordinance to lay the assessments as corrected and verified.

ARTICLE 9. NEW METHOD ASSESSMENTS TO IMPROVE STREETS; BOND.

§8-9-2. Assessments for paving or other permanent street improvements; liens.

Whenever the council of any such municipal corporation shall deem it expedient to cause any street or alley in such corporation, or portion thereof, to be curbed, or recurbed, paved or repaved, macadamized or remacadamized or otherwise improved or reimproved in a permanent manner, upon the petition in writing of persons owning the greater amount of the frontage of the lots abutting on both sides of any street or alley, between any two
cross streets or between a cross street and an alley, it
shall order the work done in the following manner and
upon the following terms: After due advertisement in
which the council shall reserve the right to reject any
and all bids, the contract for such improvement, if let,
shall be let to the lowest responsible bidder. The con-
tractor shall look only to the town for the payment of the
work, and in no sense to the abutting landowners. Sub-
ject to the provisions of section ten of this article, the
total cost of curbing, grading and paving or otherwise
improving or reimproving any such street or alley, with
the exception, in the case of a street occupied by street-
car tracks or other railways, of the distance between the
rails and two additional feet outside of each rail, which
portion shall, unless otherwise provided by an ordinance
of such town or by the franchise of such streetcar or other
railway company, be borne and paid entirely by the
streetcar or other railway company operating such street-
car or other railway, shall be borne by the owners of land
abutting upon such street, alley or portion thereof, ac-
cording to the following plan: Payment is to be made
by all landowners on either side of such portion of a
street or block so paved or improved, in such portion of
the total cost, less the portion, if any, chargeable to such
streetcar or other railway company, as the frontage in feet
of his land so abutting bears to the total frontage of all
land so abutting on such street, alley or portion thereof
so paved or improved as aforesaid: **Provided, however,**
That where a foreign railroad or other foreign corpora-
tion is the owner of property abutting upon such street
or alley, notice shall be given to such corporation, in the
manner provided in article ten of this chapter, of the in-
tention to improve such street or alley, before the enact-
ment or adoption of any ordinance or resolution relating
to such work.

When the paving or repaving of any street, or alley, or
portion thereof, shall have been let to contract, and the
work done as hereinbefore provided, it shall be the duty
of the engineer of such town to cause the several frontages
abutting thereon to be measured and to calculate the as-
essment upon each and every landowner so abutting and
to certify the same to the council showing the proper
amount to be determined as provided in the foregoing plan. It shall be the duty of the council to examine and compare such assessment, amounts and names so certified to it, and thereupon such council shall publish the following described notice as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the town. The notice shall state that an assessment under this section is about to be laid against the abutting property for paving, repaving or improvements done on such streets or alleys, describing the location of such paving, repaving, or improvements, and that any owner or owners thereof shall have the right to appear before such council, within two weeks from the first publication thereof and move such council to correct any apportionment or assessment excessive or improperly made as charged, which corrections such council shall have the power to make, and if found to be correct or when corrected by the council, as aforesaid, it shall enter the same together with a description of the lots of land as to location, frontage, depth and ownership, so far as the same may be ascertained, upon its records and enter in its records that such owners and lots be assessed and chargeable with the amounts so ascertained to be borne by them, respectively, and when so approved, certified and entered of record the same shall be and constitute an assessment against such owners and lots for such respective amounts. And it shall be the duty of the council immediately to certify such assessment to the treasurer for collection as herein provided, and a copy of such order shall be certified by the recorder to the clerk of the county court of the county wherein such property is situated, who shall be required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. The amount so assessed against such abutting landowners shall be paid in ten payments as follows: One tenth of such amount, together with interest on the whole assessment for one year, shall be paid into the treasury of the town before the first day of May next after such work is completed and after such assessments have been certified to the county clerk. And a like one
tenth together with interest for one year upon the whole amount remaining unpaid shall be paid on or before the first day of May in each succeeding year thereafter until all has been paid. And each of such installments of one tenth, beginning with the first, shall, until paid, bear interest on the amount of such installment at six per cent per annum from the date of the record of same in the office of the clerk of the county court: Provided, however, That any abutting owner so liable for any portion of the cost of such improvements shall have the right at any time after the same is certified as aforesaid to the treasurer for collection to anticipate the payment of any or all of such assessments and shall be allowed to pay the face of such assessment with interest at six per cent per annum only to the time of payment.

To each of such installments of assessments remaining unpaid in the treasurer's hands on the days herein specified for the payment thereof, a penalty of ten per cent shall be added, and any assessments so remaining unpaid in the treasurer's hands on such date shall be taken up by council, on such settlements had with the treasurer on such dates, and thereupon such council shall place such assessments, with the penalty added thereto, in the hands of the sergeant or other officer of such town whose duty it is to collect assessments, to be treated and considered, and payment thereof enforced in all respects as hereinafore provided for the collection of taxes due the town, and they shall be a lien upon the property liable therefor the same as a lien for taxes, which lien may be enforced in the same manner as provided for taxes.

The liens hereinbefore provided for shall have priority over all other liens except those for taxes. Whenever all such assessments for such improvements shall be paid in full to the treasurer he, on behalf of the municipality, shall execute and deliver to the party paying the same a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens; and whenever any such assessments shall not be in the hands of the treasurer for collection, but the same shall be shown, to the satisfaction of the town auditor or other official performing the duties of auditor, to have
been paid in full to any officer entitled to receive the same, such auditor or the mayor, in cases where the corporation has no auditor, may in like manner execute such release.

§8-9-5. Resolution for paving or sewerage; publication; special assessments; assessments nontaxable.

Whenever it is deemed expedient by the council to provide for grading, paving, curbing, sewerage, macadamizing or otherwise improving or reimproving any street or alley therein, to be paid for in whole or in part by special assessments, such council shall declare by resolution, three-fifths of the whole number elected thereto concurring, by an aye and no vote, the necessity for such improvement. At the time of the passage of such resolution, the council shall have on file, in the office of the recorder or clerk of the town, plans, specifications, estimates and profiles of the proposed improvements, showing the proposed grade of the street and the proposed improvement, after completion, with reference to the property abutting thereon, which plans, specifications, estimates and profiles shall be open to the inspection of all persons interested. Such resolution shall determine the general nature of the improvement, what shall be the grade of the street, alley or other public place to be improved, as well as the grade or elevation of the curbs, and such council shall approve the plans, specifications, estimates and profiles for the proposed improvement.

The council shall also determine in such resolution the method of paying for the work contemplated in such plans and specifications, whether by an appropriation from funds in the treasury unappropriated, or by the issuance of certificates as hereinafter provided, or whether or not the bonds shall be issued in anticipation of the collection of special assessments to be made against the abutting property owners, as provided for in section two of this article. But before any such resolution shall be passed, providing that improvements shall be made, the same to be paid for by assessments against abutting property, at least thirty days' written notice of the intention to pass such resolution shall be served on each of the abutting property owners in the manner provided in sections one and two, article two, chapter fifty-six of this
Provided, however, That where a foreign railroad or other foreign corporation is an abutting property owner, notice to such corporation shall be given in the manner provided in article ten of this chapter. And such owner or owners shall have the right to be heard for or against the passage thereof.

Assessments shall be payable in ten installments as provided for in section two of this article, and shall be recorded and constitute a lien as provided in sections two and four of this article. The resolution herein provided for declaring the necessity for such improvement shall be published as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the town in which such improvements are to be made. An affidavit of the publisher showing publication for such time, together with a copy of such notice attached, shall be filed with the recorder or clerk of the council and spread upon the record of the minutes of the next meeting of the council. Such resolution shall be in effect from and after the first publication thereof as herein provided for.

In all cases where an assessment is made upon the property abutting on the street or alley improved in accordance with the provisions contained in this section and in sections two and three of this article, the council may be resolution entered of record by it, sell, assign and transfer to any person or persons, for a cash consideration, all or any of the assessments perfected as herein provided, and apply the amount received thereby to the payment of costs of such improvements. But no such sale and assignment shall be made until either bonds or certificates of indebtedness shall have been issued for such assessment, which shall be described in detail in the notice of the lien thereof to be recorded in the trust deed record in the office of the clerk of the county court. But no sale or transfer of such assessment shall be at a greater discount than five per cent of the aggregate sum represented by such sale. When authorized to do so by the council, the mayor of such town may make an assignment and transfer of such assessments, so evidence by such bonds or certificates of indebtedness as aforesaid; and, when so
made and recorded in the trust deed book in the office
where such assessments are recorded, the purchaser of
such assessments shall be and remain until the payment
thereof subrogated to all of the rights and remedies, with-
out recourse on such town, as were obtained by recording
such assessments in the first instance, and such council
may issue against each of the several properties upon
which such assessments have been made, bonds or cer-
tificates of indebtedness corresponding in denomination
and otherwise to the annual sum to be paid on each of the
properties so assessed, and the assessments on such prop-
erties shall, when so made and recorded, remain and be a
lien thereon until all such bonds or certificates of indebt-
ness are discharged. The lien created by such assessment
and by the issuance of any bonds or certificates issued
therefor may be released as provided by law in the case
of other liens, and, in addition thereto, upon presentation
to the clerk of the county court of the county wherein
the real estate subject to such lien is situated all the bonds
or certificates issued thereunder, as to any specific real
estate therein described or located, showing that the same
have all been paid, such clerk is hereby empowered to
release the lien of such assessment as to any such real
estate, by noting a release thereof on the record of the lien
as to such real estate on the margin of the trust deed book,
where the same is recorded, and such annotation by such
clerk shall have the effect to release such real estate from
such lien as effectively as a regularly executed and re-
corded release thereof. The proceeds of the sale of such
bonds or certificates of indebtedness shall be applied to
the payment of the indebtedness incurred in making the
improvements on account of which such bonds or certifi-
cates of indebtedness were issued. Should such govern-
ning body of any town decide to issue bonds or certificates
of indebtedness, as herein provided, it may call upon the
attorney general of this state for a proper form, and it
shall be the attorney general’s duty to furnish a proper
form for all such bonds or certificates of indebtedness.

In addition to the methods hereinbefore and hereinafter
prescribed for the payment of the cost of construction
and improvement of streets, sewers and sewer systems,
the council may order any street, alley, or portion thereof,
to be graded and paved, repaved, or otherwise perma-
nently improved or reimproved or may order any sewer
constructed and laid in any street, alley or in any right
of way or easement, or portion thereof, and the council
may order to be issued a certificate for each installment
of the amount of the assessment to be paid by the owner
of any lot or fractional part thereof abutting on the street,
or alley so improved, or on the street, alley, right of way
or easement, or portion thereof, in which such sewer is
laid. The amount specified in such assessment shall be
a lien as aforesaid in the hands of the holder of such cer-
tificate upon such abutting lot or part of lot, and such
certificate shall draw interest from the date of such as-
se ssment and the payment may be enforced in the name
of the holder of such certificate by proper suit in equity
in any court having jurisdiction to enforce such lien. The
council shall fix the amount of such assessment, adver-
tise for bids and do all other things in connection there-
with as are hereinbefore and hereinafter provided in this
chapter, except (a) that the amount of such certificate
shall include the whole cost of such improvement, includ-
ing the cost of grading, paving and curbing squares at
intersections of streets, the costs of which intersections
shall be apportioned against the several properties abut-
ing upon the street or portion thereof so improved, but
such cost, if any, as is chargeable to street car or railway
companies shall be charged to and paid by such compa-
nies; (b) when a sewer is completed, the cost of which
is to be paid by the issuance of certificates, payment is to
be made by such landowner on either side or such por-
tion of a street, alley, right of way or easement in which
such sewer is laid, in such proportion as such frontage of
his land upon such street, alley, right of way or easement
bears to the total frontage of all lands so abutting on such
street, alley, right of way or easement. In case of a cor-
nor lot, frontage is to be measured along the longest di-
dimensions thereof abutting on such street, alley, right of
way or easement in which such sewer is laid. Any lot
having a depth of two hundred feet or more and fronting
on two streets, alleys, rights of way or easements, one in
front and one in the rear of such lot shall be assessed on
both of said streets, alleys, rights of way or easements,
if a sewer is constructed in both such streets, alleys, rights of way or easements. Where a corner lot has been assessed on the end it shall not be assessed on the side, and where it has been assessed on the side, it shall not be assessed on the end; (c) the cost of a sewer system shall be calculated in every respect in the same manner as the cost of the construction of a single sewer, except that such system shall be deemed to include all elements of the system which serve to drain a definite drainage area as specified in the order of the council directing the work to be done, and the owner of property abutting upon either side of such portion of a street or right of way in which any part of such system is laid shall be assessed in the proportion that the frontage of his abutting land bears to the total frontage of all lands so abutting on such street or right of way. Paving certificates shall be issued in the same number of installments and payable at the same time as other paving assessments provided for in this chapter. Sewerage certificates shall be issued in such number of installments as the council may determine, the aggregate amount of such certificates to be payable in not less than one nor more than five years, and to be divided in as nearly equal installments as practicable. Nothing contained in this section shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements, heretofore or hereafter created.

Certificates authorized by this section may be issued, sold or negotiated to the contractor doing the work, or to any other person if the council deem it expedient: Provided, That the town in issuing such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the council expressed by resolution of record before sale.

Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one of such certificates when due, and such default continuing for a period of sixty days, then all unpaid certifi-
cates shall become due and payable and the holder of such
certificates may proceed to collect all of such unpaid cer-
tificates in the manner hereinbefore provided. Certifi-
cates issued in pursuance of this section shall be negoti-
able at any bank in the town by which they are issued.

Such certificates or assessment shall be exempt from
state, county, district or municipal taxes.

The owner of the land or lot of land assessed under this
section may at any time anticipate and pay such assess-
ment or certificate with accrued interest thereon.

§8-9-6. Notice of resolution for improvements; how served.

A notice of the passage of the resolution required in the
preceding section embodying a copy of such resolution,
shall be served upon the owner of each piece of property
to be assessed, such service to be made in the manner
provided in section one, article two, chapter fifty-six of
this code: Provided, That if any of the owners or per-
sons not residents of the county wherein such improve-
ment is proposed, or if it appears by the return, in any
case, that the owner cannot be found, then a notice of the
passage of such resolution shall be published as a Class
II-0 legal advertisement in compliance with the provi-
sions of article three, chapter fifty-nine of this code, and
the publication area for such publication shall be the
town in which such improvement is proposed to be made.
Such notice, whether by service or publication, shall be
completed at least three days before such improvement
is begun or the assessment is levied, and the return of the
officer serving such notice or a certified copy of such re-
turn, or where published, the certificate of the publisher
of such newspaper, shall be prima facie evidence of the
service of the notice as herein required: Provided further,
That if the owner be a railroad company or other corpor-
ation, notice shall be served upon some agent or attorney
for such railroad company or corporation within the
county wherein such town is situate, if there be such agent
or attorney within such county; and such service shall be
made two weeks before such improvement is begun or
the assessment is levied. Notice upon infants may be
served on their guardians and upon insane persons by
service upon their committees.
ARTICLE 11. AIRPORTS AND AVIGATION.

§8-11-6. The state and political subdivisions empowered to lease airports and grounds.

The state, acting through the aeronautics commission, or any county, incorporated city, town or village owning, either severally or jointly with other like governmental units, an airport and any grounds used or useful in connection therewith may severally or jointly lease the same, for use as such airport and for any other purposes incidental to and not inconsistent therewith, for a term not exceeding thirty years: Provided, however, That no lease shall be executed by such owner or owners of any such airport or grounds unless and until such owner or owners shall have given notice by publication of the following described notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the state if it is the state which proposes to make such lease or the political subdivision or subdivisions involved if it is a political subdivision or subdivisions which propose to make such lease. The notice shall state its or their intent to lease said airport or grounds, shall accurately describe what is proposed to be leased, the purpose or purposes for which it may be used and the terms of said lease, and shall state the time and place for the public opening of proposals for such lease, and shall reserve the right to reject any and all proposals. Nothing herein contained, however, shall prevent such owner or owners of such airport or grounds from granting or renting landing rights for airplanes, hangar space, gasoline storage, or handling facilities, ticket or general office space, or any other facilities or rights in connection with such airport or grounds, covering or affecting less than the whole thereof, without notice and upon such terms as such owner or owners may deem advisable. All income received by a county court, or incorporated city, town or village under the terms of any such lease or grant shall be paid to the state sinking fund commission to retire the bonded indebtedness, if any, created for the acquisition, building and construction of such airport or grounds. And if there be no such outstanding bonded in-
debtedness, then such income to be paid into the general funds of such county, incorporated city, town or village.

ARTICLE 12. WATERWORKS.

§8-12-1a. Municipality of ten thousand population or less prohibited to sell or lease water plant without first submitting question to voters.

The common council of any municipality having a population of less than ten thousand of the state of Virginia is hereby prohibited from selling, leasing or disposing of its municipally-owned water plant, unless upon submission of the question of the proposed sale or lease to the voters of said municipality for ratification or rejection at any general or special election, three-fifths of the votes cast shall be in favor of ratification. Should any such municipality desire to sell, lease or dispose of its water plant, it shall publish the following described notice immediately prior to the general election or the special election, as fixed by the council, as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such municipality. The notice shall set forth the terms and conditions of such sale, lease or disposition of said water plant, the price which has been agreed upon, the name of the purchaser or purchasers or lessee or lessees, and such other information to the voters of said municipality as the council may deem necessary, and at such election each voter desiring to vote shall deposit a ballot in a ballot box to be provided for that purpose which ballot shall have written or printed thereon the following words:

☑ For ratification.
☒ Against ratification.

Such election shall be held under the superintendence of the commissioners of election appointed by the governing body of such municipality and the results of such election shall be certified under oath and returned by said election commissioners to the governing body of said municipality as soon as may be after such election. In the event of a vacancy due to the failure or refusal to act of any election commissioner, such vacancy may be filled by the other commissioners.
In the event that the sale, lease or disposition of said water plant is ratified by three fifths of the voters voting at said special or general election, the governing body of said municipality having control of such water plant shall proceed to consummate the lease or sale to the purchaser or purchasers upon the terms and provisions as have been agreed upon.

§8-12-4. Publication and posting of adoption of ordinance; hearing.

After such ordinance shall have been adopted, the ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such municipality. The notice to be published with said ordinance shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body, upon a certain date which shall not be less than ten days subsequent to the date of the last publication of such ordinance and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, That if at such hearing written protest is filed by thirty per cent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of said governing body assent thereto.

ARTICLE 13. COMBINED WATERWORKS AND SEWERAGE SYSTEMS.

§8-13-5. Publication of ordinance; posting; petition for referendum; election.

After the ordinance for any project under this article has been adopted and approved, it shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality undertaking such project. If no petition is
filed with the clerk of the governing body as hereinafter provided, within ten days after the publication of such ordinance, then after the expiration of such ten-day period such ordinance shall be in full force and effect, but if within such period of ten days a petition is filed with the clerk of such municipality signed by fifteen per cent of the number of voters voting at the last preceding general municipal election, asking that the question of acquiring, constructing, extending or improving or combining such waterworks and sewerage systems as provided in such ordinance and the issuance of revenue bonds in connection therewith, be submitted to the legal voters of the municipality, the governing body of such municipality shall call a special election in the manner provided by law to vote upon such question. If it appears upon the canvass of the election by the governing body that a majority of the voters voting upon such question at such election voted in favor thereof then such ordinance shall be in full force and effect, but if a majority of the votes cast are unfavorable, then such municipality shall proceed no further under such ordinance.

CHAPTER 8A. MUNICIPAL HOME RULE.

ARTICLE 2. HOME RULE PROCEDURE; CHARTER ELECTIONS.


1 The notice of an election on the question of whether a charter shall be framed shall consist of the initiatory ordinance and a brief prefatory statement setting out the purpose and date of the election, naming the candidates, if any, nominated by the governing body for membership on the charter board and stating how and within what time limit other nominations may be made. It shall be published as a ClassII-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the city. The first publication shall be made not less than thirty days prior to the date fixed for the election.


1 When it shall have completed its draft of charter a charter board shall conduct a public hearing thereon.
Notice of the time, place and purpose of the hearing and of where copies of a draft of the charter may be obtained shall be given by publication of such notice as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the city. The date of the last publication of notice shall be at least ten days prior to the date set for the hearing. The hearing may be continued by the charter board by adjournments over a period not exceeding fourteen days.

**§8A-2-12. Submission of charter to the voters.**

The proposed charter shall be submitted to the voters at a special election to be held at the time determined by the charter board. Notice of the time, place and purpose of a charter election shall be given by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the city. The first of said publications shall be made not less than thirty days prior to the date fixed for the election. Each such notice of election shall state that any qualified voter of the city may obtain a copy of the proposed charter, from a designated officer and place, upon request.

**§8A-2-15a. Charter amendment; alternate plan for class II and class III cities.**

Whenever the council of any class II or class III city, as defined under section four, article one, chapter eight-a of this code, shall deem it expedient to amend the charter of any such city, either in whole or in part, it shall, by ordinance or resolution, set out in its proper record book the proposed amendments in full. The council shall set a time and place for a public hearing thereon, which date shall not be less than thirty days after the date of the first publication hereinafter required. The proposed amendments, together with a notice of the time and place fixed for the hearing thereon, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the
14 publication area for such publication shall be the city. The notice shall also state that the proposed amendments will be considered at the time and place fixed by the council and any elector of the city may appear and file objections, in writing, and also that if no objections are filed the said amendment shall become operative on and after a date to be fixed in the notice, which date shall be not less than ten days after the date of the hearing. If no objections are filed, or if objections are filed and withdrawn at the time of the hearing, or within ten days thereafter, the council shall, by ordinance, adopt the amendments as amendment to the charter, and cause a transcript of the proceedings to be certified to the clerk of the house of delegates, as keeper of the rolls, and a copy thereof to be recorded in the office of the clerk of the county court.

If, at the time and place set for the hearing, objections to the amendments are filed and not withdrawn ten days thereafter, the council may abandon the proposed amendments to which objections have been filed, or it may submit the proposed amendments, either as a unit or separately, at the next regular city election, or at a special election, if the date of the regular election shall be more than six months from such date, for ratification or rejection. A notice of an election shall set out the proposed amendments at length or state that copies may be obtained by any qualified voter from a designated officer at a stated place, upon request. Notice of such election shall be published as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the city.

The amendments, or such of them as may be adopted, shall take effect on the date that the canvass and declaration of result showing approval by the voters has been made and entered in the minutes of the governing body. A transcript of the proceedings shall be filed and recorded as hereinbefore provided.

The method of charter amendment provided by this section is not in lieu of but in addition to the other methods prescribed in the preceding section.
§8A-3-10. Ordinance procedure.

The governing body shall enact an ordinance in the cases specified in section nine of this article in accordance with the following requirements:

1. An ordinance shall be read at not less than two meetings with at least one week intervening between each meeting;

2. At least five days before the meeting at which such ordinance is finally adopted the governing body shall cause notice of the proposed adoption of said ordinance to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the city. The notice shall state the subject matter of such ordinance and the time and place of the proposed final vote on adoption, and the place or places within the city where such ordinance may be inspected by the public;

3. An ordinance shall not be finally passed until after three days from the date of the publication and until all interested parties have been given an opportunity to attend a meeting of the council and be heard with respect to such ordinance.

4. An ordinance shall not be materially amended at same meeting at which finally passed.

The governing body of any municipality may adopt building codes, housing codes, plumbing codes, sanitary codes, electrical codes, fire prevention codes, or any other technical codes dealing with general public health, safety or welfare, or a combination of the same, by ordinance, in the manner herein prescribed. Before any such code shall be adopted, it shall be either printed or typewritten and shall be presented in pamphlet form to the governing body of the municipality at the regular meeting, and copies shall be made available for public inspection. The ordinance adopting such code shall not set out said code in full, but shall merely identify the same. The vote on passage of said ordinance shall be the same as on any other ordinance. After its adoption, such code or codes shall be certified to by the chief executive officer and
shall be filed as a permanent record in the office of the
clerk, who shall not be required to transcribe and record
the same in the ordinance book as other ordinances. It
shall not be necessary that such ordinance adopting such
code or the code itself be published in full, but before
final passage of such ordinance, notice of the proposed
adoption of such code shall be given by publication as
herein provided for other ordinances, which notice shall
state where, within the city, the code or codes will be
available for public inspection.

A home rule charter may prescribe a procedure for the
enactment of ordinances in greater detail than prescribed
by this section, but the provisions of this section shall be
required. A governing body may enact an ordinance
under suspension of the rules prescribed by this section
only in the case of a pressing public emergency making
a procedure in accordance with the section dangerous
to the public health, safety, or morals, and by affirmative
vote of two thirds of the members elected to the govern-
ing body. The nature of the emergency shall be set out
in full in the ordinance.

ARTICLE 4. POWERS OF HOME RULE CITIES.
§8A-4-28. Franchises.
1 A city shall have power to grant franchises or rights
to use the streets, waters, water front, public ways and
public places in the city. No franchise shall be granted
for a period in excess of twenty-five years, nor until
after a public hearing has been held thereon after notice
of the time, place and purpose of the hearing shall have
been published as a Class II legal advertisement in com-
pliance with the provisions of article three, chapter fifty-
nine of this code, and the publication area for such
publication shall be the city.

ARTICLE 6. CONSOLIDATION.
§8A-6-7. Certification by circuit court; filing; publication.
1 If a majority of the votes cast by the qualified voters
in each of the municipalities are shown by the county
court’s certificate to have been cast in favor of the con-
solidation, the circuit court or judge, if satisfied as to
the correctness of the returns evidenced by that certifi-
cate, shall so certify upon the certificate. He shall cause
the same to be filed forthwith in the office of the clerk
of the county court, and to be published as a Class I
legal advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the
publication area for such publication shall be each of the
municipalities so voting.

§8A-6-11. Commission on wards and election districts.

Within one week after the filing and publication pro-
vided for in section seven of this article, a joint com-
mission shall be formed consisting of the mayor or other
chief executive officer and the clerk or other recording
officer of each municipality to be consolidated, and
three inhabitants thereof appointed by the governing
body.

The commission shall be called together by the mayor
or other chief executive of the consolidating municipality
largest in population, at a time and place fixed by him,
but not later than ten days from the formation of the
commission. The commission shall organize by selecting
a chairman and clerk. The clerk shall keep a record
of all proceedings and expenses and shall file the same,
not more than fourteen days after the commission has
filed its report and certificate hereinafter prescribed, in
the office of the clerk of the county court, together
with an affidavit as to the truth and correctness
thereof.

The commission shall fix and determine the ward lines
(if the largest municipality is so divided) and election
districts of the new municipality. The commission shall,
within forty-five days from the date of its organization,
make a report and certificate over the signatures of a
majority of its members, and shall file the same in the
office of the clerk of the county court. The certificate
shall set forth and accurately describe the ward lines,
if any, and election district lines fixed by the commission,
and shall contain a proper map of the new municipality
with such lines set out thereon. The clerk of the com-
mission shall cause a copy of the certificate to be
filed in the office of the secretary of state.
The lines fixed and determined by the commission shall be those of the new municipality until changed in accordance with law. Wards, if any, shall be formed of contiguous territory. No election district shall be in more than one ward. In dividing the new municipality into wards and election districts, the commission shall have regard for, and shall take into consideration, the election laws of the state, as well as the area and population in all wards and election districts, and shall divide and arrange the same so that each will contain, as nearly as possible, an equal number of inhabitants.

A notice setting forth the ward lines, if any, and election district lines as fixed by the commission shall be published by the clerk thereof as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each of the municipalities concerned. The notice shall be published within seven consecutive days next succeeding the filing of the certificate with the clerk of the county court. The expenses of the publication shall be paid by the new municipality. Upon the completion of the publication, the wards and election districts of the consolidating municipalities shall be superseded. The commission shall appoint, in accordance with the charter of the new municipality, election officers to serve at the election provided for by section twelve of this article.

The commission may employ an engineer and an attorney to assist in performing its duties. The commission may provide for compensation to be allowed to its clerk, engineer and attorney, which shall be paid by the new municipality. The commission members shall not receive compensation for their services, but all expenses incurred by them in the performance of their duties, when itemized and sworn to by the chairman and clerk, shall be paid by the new municipality.


Ten per cent of the inhabitants of the municipality may file a petition, in writing and signed by them, with the governing body, setting forth by metes and bounds
the territory proposed to be annexed and asking that a
vote be taken upon the proposed annexation. Upon the
filing of the petition, the governing body shall order a
vote of the qualified voters of the municipality to be
taken upon the proposed annexation at a time to be
named in the order, but not less than twenty nor more
than sixty days from the date of the order. The govern-
ing body shall, at the same time, order a vote of all the
qualified voters residing in the contiguous territory, and
of all the qualified voters owning any part of such ter-
ritory whether resident thereon or not, to be taken upon
the question on the same day at some convenient place
on or near such contiguous territory. The orders shall
be published, at the cost of the municipality, as a Class
II-0 legal advertisement in compliance with the provisions
of article three, chapter fifty-nine of this code, and the
publication area for such publication shall be the munici-
pality and the contiguous territory. The first publication
shall be at least fourteen days prior to the date the vote
is to be taken. The orders so published shall contain an
accurate description by metes and bounds of the territory
proposed to be annexed, and, if practicable, shall contain
also a popular description of such territory.

CHAPTER 10. PUBLIC LIBRARIES, PUBLIC RECREATION,
ATHLETIC ESTABLISHMENTS, MONUMENTS AND
MEMORIALS.

ARTICLE 2A. ATHLETIC ESTABLISHMENTS.

§10-2A-6. Resolution for construction, etc., of establishment; notice and hearing.

Before any board shall construct, acquire, improve, ex-
tend or equip any athletic establishment under this ar-
ticle, the board shall adopt a resolution which shall (a)
set forth a brief general description of the athletic estab-
lishment, and if the same is to be constructed a refer-
ence to the preliminary report or plans and specifications
which shall theretofore have been prepared; (b) set forth
the estimated cost thereof; (c) order the construction,
acquisition, extension, improvement or equipment of such
establishment; (d) direct that revenue bonds of the
county board of education be issued pursuant to this ar-
Article; in such amount as may be found necessary to pay the costs of such athletic establishment; and (e) contain such other provisions as may be necessary or proper in the premises. Before such resolution shall become effective it, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such board of education is located. The notice shall specify a time and place for a public hearing, the time being not less than ten days after the first publication of said notice; at which time and place all parties and interests may appear before the board, and may be heard as to whether or not said resolution shall be put into effect. At such hearing all objections and suggestions shall be heard and the board shall take such action as it shall deem proper in the premises: Provided, however, That if at such hearing a written protest is filed by thirty per cent or more of the owners of real estate situate in said county, then the board of education shall not take further action unless four fifths of the members of said board assent thereto: And provided further, That in case written protest is filed purporting to have been signed by or on behalf of thirty per cent or more of the owners of real estate in said county, the board shall have authority to appoint a subcommittee to consist of one proponent, one opponent and the third to be selected by these two, to determine whether or not thirty per cent of the property owners have in fact protested, and said subcommittee shall report its findings to the board.

CHAPTER 11. TAXATION.

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-24. Review and equalization by county court.

The county court shall annually, not later than the first day of February, meet for the purpose of reviewing and equalizing the assessment made by the assessor. It shall not adjourn for longer than three days at a time until this work is completed, and shall not remain in session for a longer period than twenty-eight days.
At the first meeting, the assessor shall submit the property books for the current year, which shall be complete in every particular, except that the levies shall not be extended. The assessor and his assistants shall attend and render every assistance possible in connection with the value of property assessed by them. The court shall proceed to examine and review the property books, and shall add on the books the names of persons, the value of personal property and the description and value of real estate liable to assessment which was omitted by the assessor. They shall correct all errors in the names of persons, in the description and valuation of property, and they shall cause to be done whatever else may be necessary to make the valuation comply with the provisions of this chapter. But in no case shall any question of classification or taxability be considered or reviewed. If the court determine that any property or interest is assessed at more or less than its true and actual value, it shall fix it at the true and actual value. But no assessment shall be increased without giving the property owner at least five days' notice, in writing, and signed by the president of the court, of the intention to make the increase. Service upon the property owner shall be sufficient, or upon his agent or attorney in person, or if sent by registered mail to such property owner, his agent, or attorney, at the last known place of abode. If he be not found and have no known place of abode, then notice shall be given by publication thereof as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The date of the publication shall be at least five days prior to the increase. When it is desired to increase the entire valuation in any one district by a general increase, notice shall be given by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The date of the last publication shall be at least five days prior to the increase in valuation. When an increase is made, the
same valuation shall not again be changed unless notice is again given as heretofore provided. The clerk of the county court shall publish notice of the time, place and general purpose of the meeting as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county involved. The expense of publication shall be paid out of the county treasury.

If any person fails to apply for relief at this meeting, he shall have waived his right to ask for correction in his assessment list for the current year, and shall not thereafter be permitted to question the correctness of his list as finally fixed by the county court, except on appeal to the circuit court. After the county court completes the review and equalization of the property books, a majority of the court shall sign a statement that it is the completed assessment of the county for the year; then the property books shall be delivered to the assessor and the levies extended as provided by law.

ARTICLE 8. LEVIES.
§11-8-17. Special levy elections; notices; election officers; conduct of election; supplies; canvass of returns; form of ballot.

The local levying body shall publish a notice, calling the election, as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the territory in which the election is held. Such notice shall be so published within fourteen consecutive days next preceding the election. All the provisions of the law concerning general elections shall apply so far as they are practicable, except as follows: Where a special election is held, the local levying body, having due regard to the minimum expense involved, shall determine the number of election officials necessary to properly conduct said election, which number shall in no case be less than three commissioners and two clerks, and shall appoint the same and fix and pay their compensation, but otherwise the
election officials shall be such as are appointed to serve
with respect to the general election held at the same
time. The local levying body, however, shall provide
the election supplies necessary for such election and shall
canvass the returns thereof. A separate ballot shall be
used at a levy election held in connection with any other
election. The ballot shall be entitled: “Special election
to authorize additional levies for the year(s) _______ and for the purpose of ________ according to the order of the ______ entered on the ______ day of ________.”
The additional levy shall be on class I property _______; on class II property _______ cents; on class III property (if any) _______ cents; on class IV property (if any) _______ cents.

§11-8-32. Publication.

The requirement of publication under this article shall
be met by publication as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the taxing unit.

ARTICLE 12. LICENSE TAXES.

§11-12-84. Publication of list of delinquent corporations.

The auditor shall, between the first and fifteenth day of the second month of the license tax year in every year, publish a list of all corporations failing to pay the license tax, or any part thereof, due therefrom on or before the first day of the first month of the license tax year, as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the state. Such list shall contain the names of such delinquent corporations, arranged in two classes, domestic and foreign. The cost of such publication shall be paid by the auditor, when allowed by the board of public works, out of the moneys in the treasury. Any such delinquent corporation may, on or before the first day of the fifth month of the license tax year following or at any time before judgment or decree is entered as hereinafter provided, pay the amount of such tax and
a penalty of one per cent per month for each month or fractional part thereof that such failure continued, but the amount of such penalty shall not be less than five dollars. After the publication of the list of delinquent corporations by the auditor, he shall mail to the last known postoffice address of each of such corporations a supplemental notice, together with a statement of the total amount of tax and penalties due therefrom, which notice shall be mailed at least thirty days before the first day of the fifth month of the license tax year.

ARTICLE 17. EXCISE TAX ON SALE OF CIGARETTES.

§11-17-20. Seizure and sale of cigarettes by commissioner; forfeiture; collection of tax.

Whenever the commissioner or any of his deputies or employees authorized by him for the purpose shall discover any cigarettes, subject to tax as provided by this article and upon which the tax has not been paid as herein required, the commissioner, or such deputy or employee is hereby authorized and empowered forthwith to seize and take possession of such cigarettes, which shall thereupon be deemed to be forfeited to the state and the commissioner shall within a reasonable time thereafter sell such forfeited cigarettes, and from the proceeds of such sale shall collect the tax due thereon together with a penalty of fifty per centum thereof and all expenses and costs incurred in such proceedings, and deduct and pay any other sums due the tax commissioner by the person in possession of said forfeited cigarettes, and pay the balance, if any, to such possessor: Provided, however, That such seizure and sale shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this article. Such sale may be made in any county the tax commissioner deems most convenient and economical. Notice of such sale shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county wherein such seizure was made and the county wherein the sale is to take place. Notice shall be published at
least five days prior to the sale. All taxes and penalties collected under the provisions of this section shall be paid into the state treasury and treated as other taxes collected under this article.

ARTICLE 19. SOFT DRINKS TAX.

§11-19-7a. Seizure and sale of soft drink syrups by commissioner; forfeiture; collection of tax.

Whenever the commissioner or any of his duly authorized agents shall discover any soft drink syrups, subject to tax as provided by this article and upon which the tax has not been paid as herein required, the commissioner or his duly authorized agent is hereby authorized and empowered forthwith to seize and take possession of such soft drink syrups, which shall thereupon be deemed to be forfeited to the state and the commissioner shall within a reasonable time thereafter sell such forfeited soft drink syrups; and from the proceeds of such sale shall collect the tax due thereon together with a penalty of fifty per cent thereof and the cost incurred in such proceedings, and pay the balance, if any, to the person in whose possession such soft drink syrups were found: Provided, however, That such seizure and sale shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this article. Such sale shall be made in the county where most convenient and economical. Notice of such sale shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county wherein such seizure was made and the county wherein the sale is to take place. Notice shall be published at least five days prior to the sale. All moneys collected under the provisions of this section shall be paid into the state treasury and treated as other taxes collected under this article.
CHAPTER 11A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.

ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.

1. The sheriff may give notice by posting at not less than six public places in each magisterial district, for at least ten days before the time appointed, that between July fifteenth and August thirty-first he will attend at one or more of the most public and convenient places in each district, such places to be specified in the notice, for the purpose of receiving taxes due by the people residing or paying taxes in such district. The notice shall also state that those who pay the first installment of their taxes on or before September first will be entitled to a discount of two and one-half per cent. Like notice may be given that between January fifteenth and February twenty-eighth he will again appear in each district for the collection of taxes, and that those who pay their second installment on or before March first will be entitled to the same discount. Failure of the sheriff to post such lists shall not impair the right of the state to collect such taxes.

The county court of any county may order that the above notice shall also be given by advertisement. Such an order, once entered, shall continue in effect until rescinded by the county court. Upon entry of such order, the sheriff shall, besides posting as required above, publish the proper notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Such notice shall be so published within fourteen consecutive days next preceding the fifteenth day of July or the fifteenth day of January as the case may be. For every failure so to advertise, the sheriff shall forfeit one hundred dollars.

ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.

1. On or after April first of each year, the sheriff may prepare and publish a notice stating in effect that the
taxes assessed for the previous year have become delinquent, and that unless paid by April thirtieth will be included for publication in the forthcoming delinquent lists, which notice, if published, shall be published as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.


A copy of each of the delinquent lists shall be posted at the front door of the courthouse of the county at least two weeks before the session of the county court at which they are to be presented for examination. At the same time a copy of each list shall be published as a Class I-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Only the aggregate amount of the taxes owed by each person need be published. To cover the costs of preparing, publishing and posting the delinquent lists, a charge of two dollars and fifty cents shall be added to the taxes and interest already due on each item listed. Any person, whose taxes were delinquent on May first, may have his name removed from the delinquent lists prior to the time the same is delivered to the newspapers for publication, by paying to the sheriff the full amount of the taxes and costs owed by such person at the date of such redemption. The sheriff shall collect a charge of only fifty cents if redemption is made before the list is delivered for publication. Costs collected by the sheriff hereunder which are not expended for publication shall be paid into the general county fund.

ARTICLE 3. SALE OF LAND FOR TAXES.

§11A-3-2. Second publication and posting of list of delinquent real estate; notice.

On or before September tenth of each year, the sheriff shall prepare a second list of delinquent lands, which shall include all real estate in his county remaining delinquent as of September first, together with a notice of sale, in form or effect as follows:
Notice is hereby given that the following described tracts or lots of land or undivided interests therein in the County of _______________ which are delinquent for the nonpayment of taxes for the year (or years) 19______, will be offered for sale by the undersigned sheriff (or collector) at public auction at the front door of the courthouse of the county, between the hours of ten in the morning and four in the afternoon, on the _______ day of ______________, 19_____.

Each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, will be sold at public auction to the highest bidder for cash in an amount which shall not be less than the taxes, interest and charges which shall be due thereon to the date of sale, as set forth in the following table:

<table>
<thead>
<tr>
<th>Name of Person charged with taxes</th>
<th>Quantity of land</th>
<th>Local description</th>
<th>Total amount of taxes, interest and charges due to date of sale</th>
</tr>
</thead>
</table>

Any of the aforesaid tracts or lots, or part thereof or an undivided interest therein, may be redeemed by the payment to the undersigned sheriff (or collector) before sale, of the total amount of taxes, interest and charges due thereon up to the date of redemption.

Given under my hand this ______ day of ______________, 19_____.

Sheriff (or collector)

The sheriff shall publish the list and notice prior to the sale date fixed in the notice as a Class III-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

To cover the costs of preparing, publishing and posting the delinquent list, a charge of three dollars and fifty cents shall be added to the taxes, interest and charges already due on each item listed. The sum of the taxes, interest to the date of sale, and other charges shall be stated in the list as the total amount due.

Any person, whose taxes were delinquent on September first, may have his name removed from the de-
43 linquent list prior to the time the same is delivered to
44 the newspapers for publication by paying to the sheriff
45 the full amount of taxes and costs owed by such person
46 at the date of such redemption. In such case, the sheriff
47 shall include but fifty cents of the costs provided in this
48 section in making such redemption. Costs collected by
49 the sheriff hereunder which are not expended for pub-
50 lication shall be paid into the general county fund.

1 As soon as the clerk has prepared the notice provided
2 for in the preceding section, he shall cause it to be
3 served upon the following persons: (1) The person in
4 whose name the real estate was returned delinquent
5 and sold, or, in case of his death, his heir or devisee
6 and his personal representative, if such there be; (2)
7 any grantee of such person, or his heir or devisee and
8 his personal representative, if such there be, if a con-
9 veyance of such real estate is recorded or filed for record
10 in the office of the clerk; (3) any person having a lien
11 upon such real estate disclosed by any paper recorded
12 in the clerk's office; and (4) any other person having
13 such an interest in the property as would entitle
14 him to redeem, if the existence of such interest ap-
15 pears of record.
16 The notice shall be personally served upon all such
17 persons residing or found in the state in the manner
18 provided for serving process commencing a suit, on or
19 before the first day of February following the request
20 for such notice. If any person entitled to notice is a
21 nonresident of the state or if his residence is unknown
22 to the clerk and cannot by due diligence be discovered,
23 the notice shall be served by publication as a Class III-0
24 legal advertisement in compliance with the provisions
25 of article three, chapter fifty-nine of this code, and the
26 publication area for such publication shall be the county
27 in which such real estate is located. If service by pub-
28 lication is necessary, publication shall be commenced
29 within two weeks after February first, and a copy of
30 the notice shall at the same time be sent by registered
31 mail, return receipt requested, to the last known address
32 of the person served. The return of service of such notice
and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the clerk in his office, together with any return receipts for notices sent by registered mail.

§11A-3-41. Publication by sheriff of sales list.

1 Within one month after completion of the sale, the sheriff shall prepare and publish a list of all the sales made by him, in form or effect as follows, which list shall be published as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

List of real estate sold in the county of ___________, in the month (or months) of ___________, 19____, for nonpayment of taxes thereon for the year (or years) 19______, and purchased by individuals or by the state of West Virginia:

<table>
<thead>
<tr>
<th>Name of person charged with taxes</th>
<th>Local description of land charged</th>
<th>Quantity of land</th>
<th>Quantity of land sold</th>
<th>Name of purchaser</th>
<th>Whole amount paid by purchaser</th>
</tr>
</thead>
</table>

13 The owner of any real estate listed above, or any other person entitled to pay the taxes thereon, may, however, redeem such real estate as provided by law.

16 Given under my hand this ___________ day of ___________, 19______.

18 To cover the costs of preparing, publishing and posting such list, a charge of three dollars shall be added to the taxes, interest and charges already due on each item listed.

ARTICLE 4. SALE OF LANDS FOR SCHOOL FUND.

§11A-4-12. Service of process by publication; failure to name person as defendant; failure to obtain personal service in prior suits.

1 Upon the institution of a suit as provided in section ten of this article, the clerk of the circuit court shall enter an order of publication, without the filing of any
affidavit by the deputy commissioner as required in other cases. Such order of publication shall give the style of the suit, as, state of West Virginia v. A. B., et al; shall state that the object of the suit is to obtain a decree of the circuit court ordering the sale for the benefit of the school fund of all lands included in the suit; shall list all such lands, setting forth as to each item its local description, the former owner in whose name the land was forfeited, or was returned delinquent and sold, or escheated, as the case may be, and the names of such other defendants as may be interested therein; and shall require all the named defendants, and all unknown parties who are or may be interested in any of the lands included in the suit to appear within one month after the date of the first publication thereof and do what is necessary to protect their interests.

The order shall be published as a Class III-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The cost of such publication shall be charged rateably to each item listed in the suit, and shall be taxed to the state as part of its costs in the suit and paid as hereinafter provided.

In view of the fact that the state has absolute title to all forfeited land, to all land sold to the state for non-payment of taxes and become irredeemable, to all escheated land, and to all waste and unappropriated land, and must under the constitution have such an absolute title before the land may be sold for the benefit of the school fund; and in view of the fact that the former owner of any such land, or any person claiming under him, has no further interest therein nor rights in respect thereto except such privilege of redemption as may be extended to him by the Legislature as an act of grace; and in view of the further fact that all parties known and unknown who may claim an interest in any of the lands included in the suit are given notice thereof by the order of publication provided for above; therefore, the Legislature deems it both expedient and
necessary to provide that failure to name any such
person as a defendant shall in no wise affect the validity
of any of the proceedings in the suit for the sale of the
state's title to such land; and in view of the fact that
the supreme court of appeals in a decision just rendered
has held that there is no constitutional requirement that
the former owner or any other interested person be per-
sonally served with process in a suit for the sale for
the benefit of the school fund of lands that are and must
be the absolute property of the state; and in view of the
further fact that in its last previous enactment of this
section the Legislature had no intention of requiring that
personal service of process on named defendants in
such a suit should be a mandatory condition precedent
to the validity of any step or proceeding in such suit,
but on the contrary expressly stated that failure to
serve the summons on any named defendant should in
no wise affect the validity thereof; now therefore, the
Legislature also deems it both expedient and necessary
to provide that the failure to obtain such personal serv-
ice on any named defendant in any suit instituted under
the provisions of this article prior to the effective date
hereof shall in no way affect the validity of any step or
proceeding in any such suit or the validity of the title
acquired by the purchaser of land sold under any decree
made or to be made in any such suit.

§11A-4-23. Notice of sale.

In order to encourage attendance and bidding at the
sale, the deputy commissioner shall, beginning at least
fifteen days before the day on which the court has or-
dered that any lands be sold, publish a list of all such
lands as a Class III-0 legal advertisement in compliance
with the provisions of article three, chapter fifty-nine
of this code, and the publication area for such publica-
tion shall be the county. At the head of the list shall
be a notice of the sale in form or effect as follows:

Notice is hereby given that, pursuant to the order of
the Circuit Court of ______ County, the following
described tracts or lots of land, or undivided interests
therein, will unless sooner redeemed be sold for cash
to the highest bidder. Such sale will be held at
(here insert place of sale fixed by the court) beginning at ten o'clock in the morning on the ______ day of _______, 19______.

The list shall set forth as to each item its quantity, local description and, except in the case of waste and unappropriated lands, the name of the former owner.

The cost of such publication shall be taxed to the state as part of its costs in the suit and shall be paid as hereinafter provided.

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.

ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.


Notice of all bond elections shall be given by publication, within fourteen consecutive days next preceding the date of the election, of the order provided for in section four of this article as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the political division in which the election is to be held.

§13-1-21. Advertisement and sale of bonds; purchase by state governmental agency.

The governing body of the political division issuing such bonds shall sell the same and collect the proceeds, which proceeds shall be deposited with its treasurer. Whenever any bonds are to be sold, the body authorized to sell the same shall, before offering them to the public, offer them in writing to the secretary of state for purchase by any of the governmental agencies of the state authorized by law to purchase such bonds, which offer shall be held to be an offer to sell the bonds at their par value to the state sinking fund commission and to any other of the governmental agencies of the state authorized by law to purchase such bonds. If, after such offer is made, the governing body of the political division making the offer shall be notified in writing that none of such agencies of the state has elected to pur-
chase such bonds, or after ten days have elapsed after
such offer of sale has been made without an acceptance
by any of such agencies of the state, then the governing
body of the political division shall advertise such bonds
for sale, on sealed bids, which advertisement shall be
published as a Class II legal advertisement in compli-
ance with the provisions of article three, chapter fifty-
nine of this code, and the publication area for such pub-
lication shall be the political division. The first publi-
cation shall be made at least fourteen days before the
date fixed for the reception of bids. Such advertisement
shall also be published in a financial paper published
either in the city of New York or the city of Chicago, or
in a newspaper published in a city of this state having
a population of not less than twenty thousand inhabitants,
according to the last federal census. The governing body
may reject any and all bids. If the bonds be not sold
pursuant to such advertisement, they may, within sixty
days after the date advertised for the reception of bids,
be sold by the governing body at private sale, but no
private sale shall be made at a price less than the highest
bid which shall have been received. If not sold, such
bonds shall be readvertised in the manner herein pro-
vided. In no event shall bonds be sold for less than their
par value.

§13-1-25. Copy of proceedings to be transmitted to attorney
general for approval or disapproval; publication of
approval or disapproval.

1 The governing body of any political division issuing
bonds under this article shall, as soon as practicable after
the result of the election authorizing their issuance shall
have been officially ascertained, transmit to the attorney
general a duly certified copy of all orders, ordinances,
proclamations, notices, advertisements, affidavits, resolu-
tions and records of all the proceedings connected with
or pertaining to such bond issue, and any other matters
relative thereto which the attorney general may require.
The attorney general shall thereupon either approve or
disapprove the validity of such bond issue, and shall im-
mediately notify the governing body of the political divi-
sion which authorized the issuance of the bonds of his
action by mail, and as soon as practicable notify the peo-
ple of such political division of his approval or disap-
proval of such bond issue, by causing notice thereof to
be published as a Class II legal advertisement in com-
pliance with the provisions of article three, chapter fifty-
nine of this code, and the publication area for such pub-
lication shall be the political division.

ARTICLE 3. STATE SINKING FUND COMMISSION.

§13-3-7. Where and how bonds and interest payable; substi-
tute paying agent.

Payment of bonds and interest coupons hereafter issued
shall be made from funds specified in section eight of
this article. The place or places of payment of such bonds
and coupons shall be in accordance with the provisions
of articles one and two of this chapter. In the event of
the insolvency, threat of insolvency, death, or discontin-
nuance from business of the paying agent or in the case
of discontinuance of the place of payment as designated
by the terms of such bonds, it shall be the duty of the
sinking fund commission to appoint another paying agent
or designate another place of payment. Such action by
the commission shall be valid only if sanctioned by the
recorded votes of three fourths of the commission's mem-
bership. Upon appointment of a substitute paying agent,
it shall be the duty of the commission to publish notice
of such action as a Class II legal advertisement in com-
pliance with the provisions of article three, chapter fifty-
nine of this code, and the publication area for such pub-
lication shall be the county in which the former paying
agent had residence. Upon designation of another place
of payment, publication of notice shall be made in the
county in which was located the former place of pay-
ment.

CHAPTER 14. CLAIMS DUE AND AGAINST THE STATE.

ARTICLE 1. CLAIMS DUE THE STATE.

§14-1-8. Sale of real estate under execution; notice.

When a levy is so made upon real estate, the officer
making it shall publish notice thereof and of the time
and place of sale as a Class III-0 legal advertisement in
compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The sale shall take place at the premises or at the front door of the courthouse, as the officer may deem most advisable.


1 The sheriff, after having received a transcript of the account which is to be sold, shall give notice by publication as a Class III-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Such notice shall be so published within the twenty-one consecutive days next preceding the date of sale. The notice shall state that he will proceed to sell to the highest bidder the claims or accounts mentioned in such notice. Such notice shall show the name of the sheriff or other officer and his sureties, in case there is evidence of his having executed a bond, the year or years for which he was indebted to the state, upon what account such indebtedness exists, and the amount shown to be due thereon by the auditor's books, exclusive of interest, as well as the amount appearing to be due, with interest calculated to the day of sale.

CHAPTER 15 PUBLIC SAFETY.

ARTICLE 1B. NATIONAL GUARD.


a. Enlisted men may be honorably discharged, discharged, or discharged dishonorably; but in no case may an enlisted man be dishonorably discharged unless by sentence of a general courtmartial, except as hereinafter provided. No enlisted man shall be honorably discharged from service unless he produces the certificate of his immediate commanding officer that he has turned over or satisfactorily accounted for all property issued to him.

b. Whenever any enlisted man of the national guard shall have performed service therein for the term of his enlistment or re-enlistment, and has turned into the proper officer all state or military property for which he is responsible, his commanding officer shall grant him a full
and honorable discharge, except in time of insurrection or invasion or other emergency declared by the governor, when his enlistment shall be automatically extended for the period he shall be in the active service of the state, and until released therefrom by proper order. Discharge for physical disability shall be granted pursuant to applicable rules and regulations. The governor may authorize for sufficient reason, and in his discretion, the discharge of enlisted men, with or without their consent, at any time, upon the recommendation of the commanding officer of the unit of organization to which they belong. An enlisted man who cannot, after due diligence, be found, or who shall remove his residence from the state, or to such a distance from the armory of his organization, as to render it impracticable for him to perform properly military duties, or who shall be convicted of a felony, may be discharged by order of the governor.

c. A dishonorable discharge from service in the national guard shall operate as a complete expulsion from the guard, a forfeiture of all exemptions and privileges acquired through membership therein, and disqualification for any military office under the state. The names of all persons dishonorably discharged shall be published in orders by the adjutant general at the time of such discharge, and as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such dishonorably discharged person resides. No person so discharged shall be admitted to any armory or other meeting place of the national guard or to the immediate vicinity of any encampment, drill or parade of troops. All commanding officers are hereby required to enforce these prohibitions.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 10. STERILIZATION OF MENTAL DEFECTIVES.

§16-10-1. Persons subject to sterilization; procedure; order of state board of health.

Whenever the superintendent of any of the following state institutions, namely, the Weston State Hospital, the Huntington State Hospital, the Spencer State Hospital,
the Lakin State Hospital, the West Virginia industrial
school for boys or the West Virginia industrial home for
girls, shall be of the opinion that it is for the best interests
of the inmates of the institution of which he is superinten-
dent and of society that any inmate of such institution who
is afflicted with any hereditary form of insanity that is
recurrent, idiocy, imbecility, feeble-mindedness or epi-
lepsy should be sexually sterilized, such superintendent
shall present to the board of health of this state a written
petition stating the facts of the case and the grounds of
his opinion, verified by his affidavit to the best of his
knowledge and belief, and praying that an order may be
entered by said board requiring him to perform, or to
have performed by some competent physician or surgeon
to be designated by him in his petition or by the board
in its order, upon such inmate named in such petition,
the operation of vasectomy if upon a male and of salping-
ectomy if upon a female.

A copy of such petition shall be served upon such in-
mate named therein, together with a notice in writing
designating the time and place in said institution, not
less than thirty days before the presentation of such pe-
tition to the West Virginia Board of health, when and
where the board will hear an act upon such petition.
If such inmate has a parent, child, brother, sister, guard-
ian or committee residing in this state whose name and
place of residence are known to such superintendent,
a copy of such petition and notice shall be served upon
such parent or parents, child, brother, sister, guardian,
or committee. If such notice cannot be so served, the
superintendent shall file a copy of such petition in the
office of the clerk of the county court of the county where
the inmate last resided, and shall cause such notice to be
published as a Class II legal advertisement in compliance
with the provisions of article three, chapter fifty-nine of
this code, and the publication area for such publication
shall be the county in which the inmate last resided.
Such publication shall be completed thirty days be-
fore the presentation of said petition to the Board.
Costs of the publication shall be paid out of the county
treasury of the county wherein published. Such notice
shall be in the following form:

To the next kin of __________________________, (here name
inmate or inmates if more than one.)

Notice is given pursuant to law that the superintendent
of __________________________ (name of the institution
filing the petition) will, on the ______ day of ______, 19_____, file a petition before the West Virginia board of
health to be heard at __________________________ (name place
of hearing), asking for an order directing the sterilization
of __________________________ (name of inmate), at which
time and place any valid reason for not entering such
order may be offered.

A copy of said petition is filed in the office of the clerk
of the county court of this county.

______________________________
Superintendent of ________________

Any number of cases from the same county may be
included in the same notice.

After the notice required by this article shall have been
given as herein provided, the West Virginia board of
health, at the time and place named therein, with such
reasonable continuances from time to time and from
place to place as the board may determine, shall proceed
to hear and consider the said petition and the evidence
offered in support of and against the same. For every
such inmate the board shall appoint a guardian ad litem
who must be present at the hearing to defend the rights
and interests of such inmate. And the board shall see
to it that such inmate shall have leave and opportunity
to attend such hearings in person, if desired by him, or
by his parent, guardian or committee served with such
petition as aforesaid.

The West Virginia board of health may receive and con-
sider as evidence at such hearing the commitment papers
and other records of such inmate in any of the aforesaid
state institutions as certified by the superintendent or
superintendents thereof, together with such other legal
evidence as may be offered by any party to the proceed-
ing. Any member of the board shall have the power to
administer oaths to the witnesses at such hearings. De-
positions may be taken by any party after due notice as in pending cases and such depositions may be read in evidence if pertinent to the issue: Provided, however, That no deposition shall be read against such inmate, except with the consent of his guardian ad litem, unless it be taken in the presence of the guardian ad litem or upon interrogatories agreed on by him. The board shall preserve and keep all record evidence offered at such hearings, and shall have all oral evidence heard thereat reduced to writing and preserved and kept with its records. Any party to the proceedings shall have the right to be represented by counsel at such hearings.

The West Virginia board of health may deny the prayer of said petition or, if the board shall find that such inmate is insane, idiotic, imbecile, feeble-minded or epileptic, and by the laws of heredity is the probable potential parent of socially inadequate offspring likewise afflicted; that such inmate may be sexually sterilized without detriment to his or her general health; and that the welfare of such inmate and of society will be promoted by such sterilization, it may order such superintendent to perform, or cause to be performed by some competent physician or surgeon named in such order, upon such inmate, after not less than thirty days from the date of such order, the operation of vasectomy, if such inmate be a male, or of salpingectomy, if such inmate be a female.

ARTICLE 12. SANITARY DISTRICTS FOR SEWAGE DISPOSAL.

§16-12-1. Incorporation for sewage disposal; submission to voters; petition and hearing.

That whenever any area of contiguous territory shall contain one or more incorporated cities, town and/or villages, and shall be so situated that the construction and maintenance of a plant or plants for the purification and treatment of sewage and the maintenance of one or more outlets for the drainage thereof, after having been so treated and purified by and through such plant or plants will conduce to the preservation of the public health, comfort and convenience, the same may be incorporated as a sanitary district under this article in the manner following, to-wit:
Any four hundred legal voters, residents within the limits of such proposed sanitary district, may petition the county court of the county in which the proposed sanitary district, or the major portion thereof, is located, to cause the question to be submitted to the legal voters of such proposed sanitary district, whether such proposed territory shall be organized as a sanitary district under this article; such petition shall be addressed to the county court and shall contain a definite description of the boundaries of the territory to be embraced in the such sanitary district, and the name of such proposed sanitary district: Provided, however, That no territory shall be included within more than one sanitary district organized under this article.

Notice shall be given by such county court within ten days after receiving the petition, of the time and place when a hearing on the petition for a sanitary district will be held, by publication of such notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the area of the sanitary district. The first publication shall be made at least twenty days prior to such hearing. The hearing on the petition for a sanitary district shall be held not later than thirty days after the county court receives the said petition. At such hearing the president of the county court shall preside, and all persons resident within the limits of such proposed sanitary district shall have an opportunity to be heard upon the question of the location and boundary of such proposed sanitary district, and to make suggestions regarding the same, and the said county court, after hearing statements, evidence and suggestions, shall fix and determine the limits and boundaries of such proposed sanitary district as stated in the original petition unless by a vote of the majority of the legal voters resident within the limits of such proposed sanitary district, present at the said hearing, it should be decided to alter and amend such petition to change and redetermine the limits and boundaries of such proposed sanitary district.

After such determination by the county court, the same shall be incorporated in an order which shall be spread
at length upon the records of the county court. Upon
the entering of such order, the county court shall submit
to the legal voters of the proposed sanitary district, the
question of organization and establishment of the pro-
posed sanitary district as determined by said county
court, at a special election, to be held within sixty days
after the entering of such order, notice whereof shall
be given by the county court at least twenty days prior
thereto by publication of such notice as a Class II-0 legal
advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the pub-
lication area for such publication shall be the area of
the proposed sanitary district. Such notice shall specify
briefly the purpose of such election, with a description
of such proposed sanitary district, and the time and place
for holding such election.

Each legal voter resident within such proposed sani-
tary district shall have the right to cast a ballot at such
election. Ballots at elections held under this section shall
be in substantially the following form, to-wit:

□ For sanitary district.
□ Against sanitary district.

The ballots so cast shall be issued, received, returned
and canvassed in the same manner and by the same
officers as is provided by law in the case of ballots cast
for county officers, except as herein modified. The county
court shall cause a statement of the result of such elec-
tion to be spread on the records of the county court. If
a majority of the votes cast upon the question of the
incorporation of the proposed sanitary district shall be
in favor of the proposed sanitary district, such proposed
sanitary district shall thenceforth be deemed an organized
sanitary district under this article. All courts in this
state shall take judicial notice of the existence of all
sanitary districts organized under this article.

The expenses of holding said special election shall be
paid by the county court of said county, in which said
proposed sanitary district, or the major portion thereof,
is located, out of the general funds of said county: Pro-
vided, however, That in the event such sanitary district
is established and incorporated under this article, then
94 said sanitary district shall repay to said county the ex-
95 penses incurred in holding said special election within
96 two years from the date of incorporating said sanitary
district.

§16-12-4. Ordinances imposing penalty or making appropria-
tion; ordinances, orders and resolutions as evidence.
1 All ordinances imposing any penalty or making any
2 appropriations shall, within one month after they are
3 passed, be published as a Class II legal advertisement
4 in compliance with the provisions of article three, chap-
ter fifty-nine of this code, and the publication area for
5 such publication shall be the sanitary district. No such
6 ordinance shall take effect until ten days after it is so
7 published, and all other ordinances, orders and resolu-
tions shall take effect from and after their passage un-
less otherwise provided therein.
8 All ordinances, orders and resolutions, and the date
9 of publication thereof, may be proven by certificate of
10 the clerk under the seal of the corporation, and when
11 printed in book or pamphlet form, and purporting to be
12 published by the board of trustees, such book or pamphlet
13 shall be received as evidence of the passage and legal
14 publication of such ordinances, orders and resolutions,
as of the dates mentioned in such book or pamphlet in
15 all courts and places without further proof.

§16-12-9. Borrowing money; issuance of revenue or tax obli-
gation bonds.
1 Said sanitary district may borrow money for corporate
2 purposes and may issue revenue and/or tax obligation
3 bonds therefor, but shall not become indebted in any
4 manner, or for any purpose whatsoever, beyond an
5 amount in the aggregate to exceed five per cent of the
6 valuation of the taxable property within said district,
7 to be ascertained by the last assessment for state and
8 county taxes, previous to incurring of said indebtedness.
9 Whenever the board of trustees of such sanitary district
10 desires to issue bonds hereunder they shall order an elec-
tion to be held in such sanitary district upon the ques-
tion. Notice of such election shall be given by said
11 board of trustees by publication of such notice as a
Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the sanitary district. The first publication shall be made at least twenty days prior to said election. The notices of election shall state the amount of bonds to be issued and the polling places at which the election shall be held. The board of trustees shall appoint judges and clerks for such election and the return of such election shall be filed with the clerk of the board of trustees and be canvassed and the result ascertained by said board and entered upon the records of the sanitary district. If it shall appear that a majority of the voters voting at said election on said question shall have voted in favor of the issue of the said bonds, the board of trustees shall order and direct the execution of the bonds for and on behalf of said sanitary district. All bonds issued hereunder shall mature in not exceeding thirty annual installments. The ballots at elections held under this section shall be in substantially the following form, to-wit:

Proposition to issue bonds of ___________________ sanitary district to the amount of __________ dollars.

☐ Yes.
☐ No.

§16-12-11. Letting contracts; manner and cost of building additions or extensions.

All contracts for work to be done by such sanitary district, the expense of which will exceed five hundred dollars, shall be let to the lowest responsible bidder therefor. The board of trustees shall cause to be published a notice informing the public and contractors of the general nature of the work and of the fact that detailed plans, drawings and specifications are on file in the office of such board of trustees and calling for sealed proposals for the construction of the work to be done at a date not earlier than ten days after the last of such publications, such notice to be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the sanitary
district. Said board of trustees shall require each bidder to
deposit with his respective bid a certified check for an
amount not less than two and one-half per cent of the en-
gineer's estimate of such work to insure the execution of
the contract for which such bid is made. The board of
trustees may impose such conditions as it may deem neces­
sary upon the bidders with regard to bond and surety,
guaranteeing the good faith and responsibility of such bid­
ders, and the faithful performance of such work accord­
ing to contract, or for any other purpose. The board
of trustees shall have the right to reject any and all
bids, but if it does reject all bids, before other bids
may be received notices shall be published as originally
required. The board of trustees shall have power to let
portions of said proposed work under different contracts.

Any additions or extensions to any sewage disposal
plant, or sewers or drains or any other work constructed
under the provisions of this article, shall be built un­
der contract entered into under the provisions of this
section in the same manner as the contract for the origi­
nal plant or work. The cost of such additions or exten­
sions, and of any additional lands or rights-of-way ac­
quired by said board, may be met by the sale of addi­
tional bonds to be issued and sold by the trustees, and
the levy of taxes and/or the collection of service charges
to retire such bonds, all as provided in this article.

ARTICLE 13. SEWAGE WORKS OF MUNICIPAL CORPORATIONS
AND SANITARY DISTRICTS.
§16-13-6. Publication, posting and hearing upon ordinance.

After such ordinance shall have been adopted, the
ordinance, together with the following described notice,
shall be published as a Class II legal advertisement in com­
pliance with the provisions of article three, chapter fifty­
nine of this code, and the publication area for such publica­
tion shall be the municipality. The notice shall state
that said ordinance has been adopted, and that the
municipality contemplates the issuance of the bonds de­
scribed in the ordinance, and that any person interested
may appear before the governing body upon a certain
date which shall not be less than ten days subsequent
to the last date of publication of such ordinance and
notice, and present protests. At such hearing all objec-
tions and suggestions shall be heard and the governing
body shall take such action as it shall deem proper in
the premises: Provided, however, That if at such a hear-
ing written protest is filed by thirty per cent or more
of the owners of real estate situate in said municipality,
then the governing body of said municipality shall not
take further action unless four fifths of the qualified
members of the said governing body assent thereto.

§16-13-16. Rates for service; hearing; change or readjustment;
lien and recovery.

The governing body shall have power, and it shall be
its duty, by ordinance, to establish and maintain just
and equitable rates or charges for the use of and the
service rendered by such works, to be paid by the owner
of each and every lot, parcel of real estate or building
that is connected with and uses such works by or through
any part of the sewerage system of the municipality,
or that in any way uses or is served by such works, and
may change and readjust such rates or charges from time
to time. Such rates or charges shall be sufficient in
each year for the payment of the proper and reasonable
expense of operation, repair, replacements and main-
tenance of the works and for the payment of the sums
herein required to be paid into the sinking fund. Reve-
nues collected pursuant to this section shall be deemed
the revenues of the works. No such rates or charges
shall be established until after a public hearing, at
which all the 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 as a Class II-O legal adver-
tisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publica-
tion area for such publication shall be the munici-
pality. The first publication shall be made at least ten days
before the date fixed in such notice for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall 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 board having charge of the 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. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments. All such rates or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service 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 board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel or land or building, in accordance with the laws relating thereto: Provided, however, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished shall remain unpaid for a period of thirty days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board collect-
ing such charges shall be obligated under reasonable
rules and regulations, to shut off and discontinue both
water and sewer services to all delinquent users of either
water facilities, or sewer facilities, or both, and shall not
restore either water facilities or sewer facilities to any
delinquent user of either until all delinquent charges
for both water facilities and sewer facilities, including
reasonable interest and penalty charges, have been paid
in full.

§16-13-18a. Publication of financial statement.

1 Every sanitary board shall prepare a financial state-
ment and cause the same to be published as a Class I
legal advertisement in compliance with the provisions
of article three, chapter fifty-nine of this code, and the
publication area for such publication shall be the sani-
tary district. Such statement shall contain an item-
ized account of the receipts and expenditures of the
board during the previous fiscal year, showing the source
from which all money was derived, and the name of the
person to whom an order was issued, together with the
amount of such order, and why such order was issued,
arranging the same under distinct heads, and including
all money received and expended from the sale of bonds,
and also a specific statement of the debts of such board,
showing the purpose for which any debt was contracted,
the amount of money in all funds at the end of the
preceding year, and the amount of uncollected service
charges. Such statement shall be prepared and pub-
lished by the board as soon as practicable after the close
of the fiscal year: Provided, That such statement for the
fiscal year ending June thirtieth, one thousand nine hun-
dred fifty-six, may be published any time during the
year one thousand nine hundred fifty-seven. The state-
ment shall be sworn to by the chairman and secretary
and treasurer of the board. If a board fails or refuses
to perform the duties hereinbefore named, every member
of the board concurring in such failure or refusal shall
be guilty of a misdemeanor, and, upon conviction there-
of, shall be fined not less than one hundred nor more
than five hundred dollars and the circuit court or crimi-
nal court and justices of the peace, of the county where
the offense was committed, shall have concurrent juris-
diction to try such offense.

§16-13-23a. 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 chief of the divi-
sion of water resources or the state water resources board
requiring such municipal corporation to cease the pollu-
tion of any stream or waters, is hereby authorized and em-
powered 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 munici-
pal corporation, and/or for the use of the services and fa-
cilities 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 rea-
sonable costs and expenses of the acquisition and con-
struction of plants, machinery and works for the collect-
ion and/or treatment, purification and disposal of sew-
age, and the repair, alteration and extension of existing
sewer facilities, as may be necessary to comply with such
order of the chief of the division of water resources or the
state water resources board, and for the operation, main-
tenance 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 pro-
cceeds 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 pay-
sing said costs and expenses of construction and operation
in the manner as provided by said ordinance; and after
the completion 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, maintenance, 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 hearing, 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 of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing. 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 resources board, 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 resources board, 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.

ARTICLE 13A. PUBLIC SERVICE DISTRICTS FOR WATER AND SEWERAGE SERVICES.

§16-13A-2. Creation of districts by county court; enlarging or reducing district; consolidation; agreements, etc., infringing upon powers of county court.

1 The county court of any county may on its own motion by order duly adopted propose the creation of such public service district within such county, setting forth in such order a description sufficient to identify the territory to be embraced therein and the name of such proposed district, or any one hundred legal voters resident within and owning real property within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which petition shall contain a description sufficient to identify the territory to be embraced therein and the name of such proposed district. Any territory may be included regardless of whether or not such territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes
one or more cities, incorporated towns or other municipal
corporations being served by privately owned public
service properties: Provided, however, That no terri-
tory shall be included within more than one public
service district organized under this article and the
boundaries shall conform to or follow magisterial district
lines except where less than a whole of any magisterial
district is to be included, in which latter case that part
of any such boundary shall conform to other natural
boundary lines, or the lines of a fixed survey: And
provided further, That no city, incorporated town or other
municipal corporation shall be included within the
boundaries of such proposed district except upon the
adoption of a resolution of the governing body of such
city, incorporated town or other municipal corpora-
tion consenting thereto.

Such petition shall be filed in the office of the clerk
of the county court of the county in which the territory
to constitute the proposed district is situated, and if such
territory is situated in more than one county then such
petition shall be filed in the office of the clerk of the
county court of the county in which the major portion
of such territory extends, and a copy thereof (omitting
signatures) shall be filed with each of the clerks of the
county courts of the other county or counties into
which the territory extends. It shall be the duty of the
clerk of the county court receiving such petition to pre-
sent same to the county court of such county at
the first regular meeting after such filing or at a special
meeting called for the consideration thereof.

When the county clerk of any county enters an order
on its own motion proposing the creation of a public
service district, as aforesaid, or when a petition for such
creation is presented, as aforesaid, the county court shall
at the same session fix a date of hearing in such county
on the creation of the proposed public service district,
which date so fixed shall be not more than forty days
nor less than twenty days from the date of such action.
If the territory proposed to be included is situated
in more than one county, the county court, when
fixing a date of hearing, shall provide for notifying the
county court and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county court of each county in which any territory in the proposed public service district is located shall cause notice of such hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to such hearing. In all cases where proceedings for the creation of such public service districts are initiated by petition as aforesaid the person filing the petition shall advance or satisfactorily indemnify the payment of the costs and expenses of publishing the hearing notice, and otherwise the costs and expenses of such notice shall be paid in the first instance by the county court out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before said hearing.

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county court before which the hearing is conducted shall consider and determine the feasibility of the creation of the proposed district. When it shall have been thus determined that the construction or acquisition by purchase or otherwise, and maintenance, operation, improvement, and extension of public service properties by such public service district will be conducive to the preservation of public health, comfort and convenience of such area, then such county court shall by order create such public
service district, and such order shall be conclusive and final in that regard. If the court shall, after due consideration, determine that the proposed district will not be conducive to the preservation of public health, comfort or convenience of such area, or that the creation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the same, or it may enter an order amending the description of the proposed district, and create said district as amended. The clerk of the county court of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating the same: Provided, however, That if at such hearing written protest is filed by thirty per cent or more of the qualified voters registered and residing within said district, then the county court shall not take any further action in creating such district unless the creation of such district shall be approved by a majority vote of the qualified registered voters voting at a referendum to be called by the county court for such purpose. Such referendum shall be called and held in the manner provided in the general election laws of the state of West Virginia applicable thereto and the funds therefor shall be supplied from any county funds available for such purpose, or from funds supplied from the persons who petitioned for the creation of such district. If a majority of the qualified registered electors participating in said election shall vote against the creation of said district, then such district shall not be created. If, however, a majority of the qualified registered voters participating in such referendum vote in favor of the creation of such district, then the county court shall duly enter its order creating such district.

After the creation of such district the county court may, if in its discretion it deems it necessary, feasible and proper, enlarge the said district to include additional areas, reduce the area of said district, where facilities, equipment, service or materials have not been extended, or establish or consolidate two or more such districts: Provided, That where the county court determines on its own motion by order entered of record, or there is a
petition, to enlarge the district or reduce the area of
the district, all of the applicable provisions of this article
providing for hearing, notice of hearing and protest shall
apply with like effect as if a district were being created.
The districts may not enter into any agreement, con-
tract or covenant that infringes upon, impairs, abridges or
usurps the duties, rights or powers of the county court,
as set forth in this article, or conflicts with any provision
of this article.

§16-13A-7. Acquisition and operation of district properties.
1 The board of such districts shall have the supervision
2 and control of all public service properties acquired or
3 constructed by the district and shall have power, and it
4 shall be its duty, to maintain, operate, extend and im-
5 prove the same. All contracts involving the expendi-
6 ture by the district of more than two thousand dollars
7 for construction work or for the purchase of equipment
8 and improvements, extensions or replacements, shall be
9 entered into only after notice inviting bids shall have
10 been published as a Class I legal advertisement in com-
11 pliance with the provisions of article three, chapter fifty-
12 nine of this code, and the publication area for such publi-
13 cation shall be the district. The publication shall not be
14 less than ten days prior to the making of any such con-
15 tract. Any obligations incurred of any kind or character
16 shall not in any event constitute or be deemed an in-
17 debtedness within the meaning of any of the provisions or
18 limitations of the constitution but all such obligations
19 shall be payable solely and only out of revenues derived
20 from the operation of the public service properties of the
district or from proceeds of bonds issued as hereinafter
21 provided. No continuing contract for the purchase of
22 materials or supplies or for furnishing the district with
23 electrical energy or power shall be entered into for a
24 longer period than fifteen years.
ARTICLE 15. STATE HOUSING LAW.

§16-15-20. Bonds authorized by resolution; interest rate and life; forms; denominations; redemption; how payable; sale; signatures of commissioners or officers ceasing to be such before delivery; presumptions in suit, etc., involving validity.

Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six per cent per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds shall be sold at not less than par at public sale held after notice published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the city or county, as the case may be. The notice shall be published at least five days prior to such sale. The notice shall also be published in a financial newspaper published in the city of New York, New York: Provided, however, That such bonds may be sold to the federal government at private sale at not less than par and, in the event less than all of the bonds authorized in connection with any project or projects are sold to the federal government, the balance of such bonds may be sold at private sale at not less than par at an interest cost to the authority of not to exceed the interest cost to the authority of the portion of the bonds sold to the federal government.

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the
same as if they had remained in office until such delivery. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this article shall be negotiable.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character, and said project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this article.

ARTICLE 18. SLUM CLEARANCE.
§16-18-6. Preparation and approval of redevelopment plans.

(a) An authority shall not acquire real property for a redevelopment project unless the governing body of the community in which the redevelopment project area is located has approved the redevelopment plans, as prescribed in subsection (i) below.

(b) An authority shall not prepare a redevelopment plan for a redevelopment project area unless the governing body of the community in which such area is located has, by resolution, declared such area to be a slum or blighted area in need of redevelopment.

(c) An authority shall not recommend a redevelopment plan to the governing body of the community in which the redevelopment project area is located until a general plan for the development of the community has been prepared.

(d) The authority may itself prepare or cause to be prepared a redevelopment plan or any person or agency, public or private, may submit such a plan to an authority. A redevelopment plan shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements and the proposed land uses and building requirements in the
redevelopment project area, and shall include without
being limited to:
(1) The boundaries of the redevelopment project
area, with a map showing the existing uses and condi-
tions of the real property therein;
(2) A land use plan showing proposed uses of the
area;
(3) Information showing the standards of population
densities, land coverage and building intensities in the
area after redevelopment;
(4) A statement of the proposed changes, if any, in
zoning ordinances or maps, street layouts, street levels
or grades, building codes and ordinances;
(5) A site plan of the area; and
(6) A statement as to the kind and number of addi-
tional public facilities or utilities which will be required
to support the new land uses in the area after rede-
velopment.
(e) Prior to recommending a redevelopment plan
to the governing body for approval, an authority shall
submit such plan to the planning commission of the
community in which the redevelopment project area is
located for review and recommendations as to its con-
formity with the general plan for the development of
the community as a whole. The planning commission
shall submit its written recommendations with respect
to the proposed redevelopment plan to the authority
within thirty days after receipt of the plan for review.
Upon receipt of the recommendations of the planning
commission or, if no recommendations are received within
said thirty days, then without such recommendations,
an authority may recommend the redevelopment
plan to the governing body of the community for ap-
proval.
(f) Prior to recommending a redevelopment plan
to the governing body for approval, an authority shall
consider whether the proposed land uses and building
requirements in the redevelopment project area are
designed with the general purpose of accomplishing, in
conformance with the general plan, a coordinated, ad-
justed and harmonious development of the community
and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage and other public utilities, schools, parks, recreational and community facilities and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, the prevention of the recurrence of insanitary or unsafe dwelling accommodations, slums, or conditions of blight, and the provision of adequate, safe and sanitary dwelling accommodations.

(g) The recommendation of a redevelopment plan by an authority to the governing body shall be accompanied by the recommendations, if any, of the planning commission concerning the redevelopment plan; a statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area and the estimated proceeds or revenues from its disposal to redevelopers; a statement of the proposed method of financing the redevelopment project; and a statement of a feasible method proposed for the relocation of families to be displaced from the redevelopment project area.

(h) The governing body of the community shall hold a public hearing on any redevelopment plan or substantial modification thereof recommended by the authority, after public notice thereof by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the community. The last publication shall be at least ten days prior to the date set for the hearing. The notice shall describe the time, date, place and purpose of the hearing and shall also generally identify the area
to be redeveloped under the plan. All interested parties shall be afforded at such public hearing a reasonable opportunity to express their views respecting the proposed redevelopment plan.

(i) Following such hearing, the governing body may approve a redevelopment plan if it finds that said plan is feasible and in conformity with the general plan for the development of the community as a whole: Provided, That if the redevelopment project area is a blighted area, the governing body must also find that a shortage of housing of sound standards and designs, adequate for family life, exists in the community; the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas under redevelopment; the conditions of blight in the redevelopment project area and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals or welfare; and that the development of the blighted area for predominantly residential uses is an integral part of and essential to the program of the community for the elimination of slum areas. A redevelopment plan which has not been approved by the governing body when recommended by the authority may again be recommended to it with any modifications deemed advisable.

(j) A redevelopment plan may be modified at any time by the authority: Provided, That if modified after the lease or sale of real property in the redevelopment project area, the modification must be consented to by the redeveloper or redevelopers of such real property or his successor, or their successors in interest affected by the proposed modification. Where the proposed modification will substantially change the redevelopment plan as previously approved by the governing body the modification must similarly be approved by the governing body.

§16-18-7. Disposal of property in redevelopment project.

(a) An authority may sell, lease, exchange or otherwise transfer real property or any interest therein in
a redevelopment project area to any redeveloper for residential, recreational, commercial, industrial or other uses or for public use in accordance with the redevelopment plan, subject to such covenants, conditions and restrictions as it may deem to be in the public interest or to carry out the purposes of this article: Provided, That such sale, lease, exchange or other transfer, and any agreement relating thereto, may be made only after, or subject to, the approval of the redevelopment plan by the governing body of the community. Such real property shall be sold, leased or transferred at its fair value for uses in accordance with the redevelopment plan notwithstanding such value may be less than the cost of acquiring and preparing such property for redevelopment. In determining the fair value of real property for uses in accordance with the redevelopment plan, an authority shall take into account and give consideration to the uses and purposes required by such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the redeveloper of, such property; the objectives of the redevelopment plan for the prevention of the recurrence of slum or blighted areas; and such other matters as the authority shall specify as being appropriate. In fixing rentals and selling prices, an authority shall give consideration to appraisals of the property for such uses made by land experts employed by the authority.

(b) An authority shall publish the following notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the community. The notice shall be published prior to the consideration of any redevelopment contract proposal, and shall invite proposals from, and make available all pertinent information to private redevelopers or any persons interested in undertaking the redevelopment of an area, or any part thereof, which the governing body has declared to be in need of redevelopment. Such notice shall identify the area, and shall state that such further information as is available may be obtained at the office of the authority. The authority shall consider all rede-
development proposals and the financial and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The authority may accept such redevelopment contract proposal as it deems to be in the public interest and in furtherance of the purposes of this article: Provided, That the authority has, not less than thirty days prior thereto, notified the governing body in writing of its intention to accept such redevelopment contract proposal. Thereafter, the authority may execute such redevelopment contract in accordance with the provisions of subsection (a) and deliver deeds, leases and other instruments and take all steps necessary to effectuate such redevelopment contract. In its discretion, the authority may, without regard to the foregoing provisions of this paragraph, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of subsection (a).

(c) In carrying out a redevelopment project, an authority may:

(1) Convey to the community in which the project is located, such real property as, in accordance with the redevelopment plan, is to be laid out into streets, alleys, and public ways;

(2) Grant servitudes, easements and rights of way, for public utilities, sewers, streets and other similar facilities, in accordance with the redevelopment plan; and

(3) Convey to the municipality, county or other appropriate public body, such real property as, in accordance with the redevelopment plan, is to be used for parks, schools, public buildings, facilities or other public purposes.

(d) An authority may temporarily operate and maintain real property in a redevelopment project area pending the disposition of the property for redevelopment, without regard to the provisions of subsections (a) and
(b) above, for such uses and purposes as may be deemed desirable even though not in conformity with the redevelopment plan.


(a) An authority shall have power to issue bonds from time to time in its discretion for any of its corporate purposes including the payment of principal and interest upon any advances for surveys and plans for redevelopment projects. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring or in exchange for bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable:

(1) Exclusively from the income, proceeds and revenues of the redevelopment project financed with the proceeds of such bonds; or

(2) Exclusively from the income, proceeds, and revenues of any of its redevelopment projects whether or not they are financed in whole or in part with the proceeds of such bonds: Provided, That any such bonds may be additionally secured by a pledge of any loan, grant or contributions, or parts thereof, from the federal government or other sources, or a mortgage of any redevelopment project or projects of the authority.

(b) Neither the commissioners of an authority nor nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of the municipality, the county, or the state and neither the municipality, the county, nor the state shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority acquired for the purposes of this article. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an
essential public and governmental purpose and to be
public instrumentalities and, together with interest there-
on and income therefrom, shall be exempt from all taxes.
Such bonds need not be offered by the authority to
the state sinking fund commission at any time and
an authority shall not be required to turn over
any surplus or sinking funds to the state sinking
fund commission.
(c) Bonds of an authority shall be authorized by its
resolution and may be issued in one or more series and
shall bear such date or dates, be payable upon demand or
mature at such time or times, bear interest at such rate
or rates, not exceeding six per centum per annum, be
in such denomination or denominations, be in such form
either coupon or registered, carry such conversion or
registration privileges, have such rank or priority, be
executed in such manner, be payable in such medium
of payment, at such place or places, and be subject to
such terms of redemption (with or without premium)
as such resolution, its trust indenture or mortgage may
provide.
(d) The bonds shall be sold at not less than par at
public sale held after notice published as a Class I legal
advertisement in compliance with the provisions of arti-
cle three, chapter fifty-nine of this code, and the pub-
lication area for such publication shall be the area of
operation. Such publication shall be made at least ten days
prior to such sale. The notice may be published in such
other medium of publication as the authority may deter-
mine: Provided, That such bonds may be sold to the fed-
eral government at private sale at not less than par, and,
in the event less than all of the bonds authorized in con-
nection with any project or projects are sold to the federal
government, the balance of such bonds may be sold at pri-
ivate sale at not less than par at an interest cost to the au-
thority of not to exceed the interest cost to the authority of
the portion of the bonds sold to the federal government.
(e) In case any of the commissioners or officers of
the authority whose signatures appear on any bonds or
coupons shall cease to be such commissioners or officers
before the delivery of such bonds, such signatures shall,
nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had re-
mained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this article shall be fully nego-
tiable.

(f) In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in sub-
stance that it has been issued by the authority to aid in financing a redevelopment project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this article.

ARTICLE 20. AIR POLLUTION CONTROL.

§16-20-5. Same—Powers and duties; legal services; rules and regulations; public hearings.

The commission is hereby authorized and empowered:

(1) To develop ways and means for the regulation and control of pollution of the air of the state;

(2) To advise, consult and cooperate with other agen-
cies of the state, political subdivisions of the state, other states, agencies of the federal government, industries, and with affected groups in furtherance of the declared purposes of this article;

(3) To encourage and conduct such studies and re-
search relating to air pollution and its control and abate-
ment as the commission may deem advisable and necessary;

(4) To adopt and to promulgate reasonable regula-
tions, not inconsistent with the provisions of this article, relating to the control of air pollution: Provided, That no rule or regulation of the commission shall specify the design of equipment, type of construction, or par-
ticular method which a person shall use to reduce the discharge of air pollutants, nor shall any such rule or regulation apply to any aspect of an employer-employee relationship;
(5) To enter orders requiring compliance with the provisions of this article and the regulations lawfully promulgated hereunder;

(6) To consider complaints, subpoena witnesses, administer oaths, make investigations, and hold hearings relevant to the promulgation of regulations and the entry of compliance orders hereunder;

(7) To encourage voluntary cooperation by municipalities, counties, industries and others in preserving the purity of the air within the state;

(8) To employ personnel, including specialists and consultants, purchase materials and supplies, and enter into contracts necessary, incident or convenient to the accomplishment of the purposes of this article;

(9) To enter at reasonable times upon any private or public property for the purpose of investigating an alleged statutory air pollution: Provided, however, That no such investigation shall extend to information relating to secret processes or methods of manufacturing or production;

(10) Upon reasonable evidence of a violation of this article, which presents an imminent and serious hazard to public health, to give notice to the public or to that portion of the public which is in danger by any and all appropriate means;

(11) To cooperate with, receive and expend money from the federal government and other sources;

(12) To represent the state in any and all matters pertaining to plans, procedures and negotiations for interstate compacts in relation to the control of air pollution; and

(13) To appoint technical advisory councils from such areas of the state as it may determine. Each such council so appointed shall consist of not more than five members for each area so designated, at least two of whom shall be truly representative of industries operating within such area, and may advise and consult with the commission about all matters pertaining to the regulation, control and abatement of air pollution within such area.
The attorney general and his assistants and the prosecuting attorneys of the several counties shall render to the commission without additional compensation such legal services as the commission may require of them to enforce the provisions of this article.

No rule or regulation of the commission pertaining to the control, reduction or abatement of air pollution shall become effective until after at least one public hearing thereon shall have been held by the commission within the state. Notice to the public of the time and place of any such hearing shall be given by the commission at least thirty days prior to the scheduled date of such hearing by advertisement published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county wherein such hearing is to be held. Full opportunity to be heard shall be accorded to all persons in attendance and any person, whether or not in attendance at such hearing, may submit in writing his views with respect to any such rule or regulation to the commission within thirty days after such hearing. After such thirty-day period, no views or comments shall be received in writing or otherwise, unless formally solicited by the commission. The proceedings at the hearing before the commission shall be recorded by mechanical means or otherwise as may be prescribed by the commission. Such record of proceedings need not be transcribed unless requested by an interested party, in which event the prevailing rates for such transcripts will be required from such interested party.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 4. STATE ROAD SYSTEM; PRIMARY AND SECONDARY ROADS.

§17-4-19. Contracts for work and materials; advertising and bids; services by state road forces and prison labor.

All work of construction and reconstruction of state roads and bridges, and the furnishing of all materials and supplies therefore, and for the repair thereof shall be done
and furnished pursuant to contract except that the commis-

sioner shall not be required to award any contract

for work, which can be done advantageously, economi-

cally and practicably by commission forces or prison

labor and by use of state road equipment, or for mate-

rials and supplies, which are manufactured, processed

or assembled by the commissioner: Provided, however,

That the commissioner shall not be required to award

any contract for work, materials or supplies for an

amount less than three thousand dollars. In all such

work, the commissioner shall utilize state road forces or

prison labor and state road equipment and shall manu-

facture, process and assemble all such materials and

supplies for such work whenever and wherever the com-

missioner, in his discretion, finds such work and services

advantageous, economical and practicable in the state

road program.

When the commissioner is about to construct, recon-

struct, or improve any road or highway, he shall cause

to be filed with the clerk of the county court, or of the

municipality, as the case may be, in which such road

lies, a certified copy of the plans and specifications there-

for, and a notice that the commissioner is about to enter

upon and proceed with the work in question. If the

work is to be done, or the materials therefor are to be

furnished by contract, the commissioner shall thereupon

publish the following described advertisement as a

Class II legal advertisement in compliance with the pro-

visions of article three, chapter fifty-nine of this code,

and the publication area for such publication shall be

the county or municipality in which the road lies. Such

advertisement shall also be published at least once in

at least one daily newspaper published in the city of

Charleston and in such other journals or magazines as

may to the commissioner seem advisable. The advertise-

ment shall solicit sealed proposals for the construction

or other improvement of such road, and for the furnish-

ing of materials therefor, accurately describing the same,

and stating the time and place for opening such pro-

posals and reserving the right to reject any and all pro-

posals: Provided, however, That whenever the esti-
mated amount of any contract for work or for materials
or supplies is less than three thousand dollars, the com-
missioner shall not be required to advertise the letting
of said contract in newspapers as above required, but
may award the contract to the lowest responsible bidder,
when two or more sealed proposals or bids have been
received by him without such advertisement, but such
contract shall not be so awarded unless the bid of the
successful bidder is three thousand dollars or less. The
commissioner shall have the power to prescribe proper
prequalifications of contractors bidding on state road
construction work. To all sealed proposals there shall
be attached the certified check of the bidder or bidder's
bond acceptable to the commissioner, in such amount
as the commissioner shall specify in the advertisement,
but not to exceed five per cent of the aggregate amount
of the bid; but such amount shall never be less than
five hundred dollars. Such proposals shall be publicly
opened and read at the time and place specified in the
advertisement, and the contract for such work, or for
the supplies or materials required therefor shall, if let,
be awarded by the commissioner to the lowest respon-
sible bidder for the type of construction selected. In
case all bids be rejected, the commissioner may there-
after do the work with commission forces or with prison
labor, or may readvertise in the same manner as before
and let a contract for such work pursuant thereto.

ARTICLE 10. COUNTY COURTS; GENERAL AUTHORITY AND
DUTIES AS TO ROADS.

§17-10-8. Advertisement of contracts.

1 In case the county court desires to contract for the
2 construction, reconstruction or maintenance of a road
3 or bridge or for the purchase of supplies and equip-
4 ment, it shall advertise for the letting of the contract
5 by publishing such advertisement as a Class II legal
6 advertisement in compliance with the provisions of article
7 three, chapter fifty-nine of this code, and the publication
8 area for such publication shall be the county. Such pub-
9 lication shall be so made within fourteen consecutive days
10 next preceding the date of the letting of the contract.
§17-10-9. Letting road and bridge work to contract.

All bids for work to be done by contract on roads and bridges under the control of the county court shall be received at the courthouse of the county at the time specified in the advertisement, and shall be opened only in open court, and the amount and items comprising each bid shall be publicly announced, and the contract, if let, shall be awarded to the lowest bidder for the type of construction selected. The contractor shall give bond with security to be approved by the court in an amount equal to fifty per cent of the contract price, conditioned for the faithful performance of the contract.

After such bids have been opened the county court shall publish immediately the names of all persons bidding on such contract, together with the itemized amount of their respective bids, designating the person to whom such contract was awarded, if awarded, together with the amount of his bid. Such information shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

The court may reject any and all bids, and may thereafter have the work done in any other manner that it may deem advisable. If there be two bids of the same amount for any section of road, or for any other improvement thereon, the court shall have the power to accept either of such bids.

The court may reserve from payment not more than twenty per cent of the amount accruing on the contract until the work has been completed and approved.

Any person who shall open any of the bids at any other time or place than herein provided, or shall make known the name of the bidder, or the amount of his bid, otherwise than as herein provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than two hundred dollars, and be imprisoned in the county jail not less than one nor more than six months. Any member of the county court who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor,
and upon conviction, shall in addition to the penalties provided above forfeit his office.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-13g. Procedure for contracting with insurers; licensing of insurer; exemption of certain insurers from premium and annuity taxes.

1 In contracting for the group insurance provided for in section thirteen-c and for the supplemental retirement benefits provided for in section thirteen-f of this article, as well as for other insurance benefits for any and all persons employed by it at institutions of higher learning under its control, the state board of education shall solicit proposals for the coverage sought, which proposals shall be obtained by public notice published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the state. Such notice shall be so published within fourteen consecutive days next preceding the final date for submitting proposals. The board may also solicit proposals by sending requests by mail to prospective insurers. Upon receipt and consideration of such proposals as may be submitted the board shall have the authority to accept the proposal of and contract with the insurer offering the insurance program or programs determined by the board, in its judgment, to be the most desirable to the beneficiaries thereof, whether such insurer be then licensed as an insurance company in this state or not:

Provided, That no contract shall be made effective unless and until the insurance company becomes licensed as a life insurance company in accordance with article three, chapter thirty-three of this code, as amended:

Provided further, That if such insurer shall be a life insurance company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding and strengthening non-profit institutions or foundations engaged primarily in education or research, by issuing insurance and annuity contracts only to or for the benefit of such institutions
and to individuals engaged in the service of such institutions, it shall be exempt from the payment of premium and annuity taxes provided for by sections fourteen, fourteen-a and fifteen, article three, and any other pertinent premium tax sections, of chapter thirty-three of this code, as amended, as to all annuity or insurance contracts made with educational institutions located within, or relative to subjects of insurance resident in, West Virginia.

ARTICLE 9. SCHOOL FINANCES.

§18-9-2. Elections under this chapter; how held.

Any and all elections authorized by this chapter for school purposes may, unless otherwise provided, be held separately or in connection with any general or special election. Notice of any such election shall be given by the publication of the order of the board calling the same as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the territory in which the election is to be held. The order shall be so published within fourteen consecutive days next preceding the day of election. All provisions of the law concerning general and special elections shall apply in such elections in so far as is practicable, except that in cases of special elections the board calling the election shall appoint necessary election officers and shall canvass the returns, and the secretary of the board shall procure and furnish to the election commissioners at each place of voting the ballots, poll books, tally sheets and other things needed. In calling elections, district and county boards of education shall follow the forms to be prescribed by the attorney general.

§18-9-3a. Preparation, publication, and disposition of financial statements by county boards of education.

The county board of education of every county, within four weeks after the beginning of each fiscal year, shall prepare on a form to be prescribed by the state tax commissioner and the state superintendent of free schools, and cause to be published a statement revealing (a)
the receipts and expenditures of the board during the
previous fiscal year arranged under descriptive headings,
(b) the name of each firm, corporation, and person who
received more than fifty dollars in the aggregate from all
funds during the previous fiscal year, together with the
aggregate amount received from all funds and the pur-
pose for which paid: Provided, That such statement
shall not include the name of any person who has entered
into a contract with this board pursuant to the provisions
of section one, article seven of this chapter and is regu-
larly employed by such board for instructional purposes,
and (c) all debts of the board, the purpose for which
each debt was contracted, its due date, and to what date
the interest thereon has been paid. Such statement
shall be published as a Class I-0 legal advertisement in
compliance with the provisions of article three, chapter
fifty-nine of this code, and the publication area for such
publication shall be the county. The county board of
education shall pay the cost of publishing such statement
from the maintenance fund of the board.
As soon as is practicable following the close of the
fiscal year, a copy of the published statement herein
required shall be filed by the county board of education
with the state tax commissioner and with the state
superintendent of free schools.
The county board of education shall transmit to any
resident of the county requesting the same a copy of
the published statement for the fiscal year designated,
supplemented by a list of the names of all teachers em-
ployed by the board during such fiscal year showing
the amount paid to each, and a list of the names of each
firm, corporation, and person who received less than
fifty dollars from any fund during such fiscal year show-
ing the amount paid to each and the purpose for which
paid.

CHAPTER 19. AGRICULTURE.

ARTICLE 4. COOPERATIVE ASSOCIATIONS.

§19-4-9. General and special meetings.
1 In its by-laws, each association shall provide for one
2 or more regular meetings annually. The board of direc-
tors shall have the right to call a special meeting at any time; and ten per cent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. Such meeting must thereupon be called by the directors. Notice of all meetings, together with a statement of the purposes thereof, shall be mailed to each member at least ten days prior to the meeting:

Provided, however, That the by-laws may require instead that such notice may be given as provided by this section, namely, as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the principal place of business of the association is located.

ARTICLE 9. DISEASES AMONG DOMESTIC ANIMALS.


A general quarantine may be established and maintained whenever any communicable disease of domestic animals shall exist in any locality in the state larger in extent than that which may be included in a special quarantine. A general quarantine shall be established and maintained by order of the commissioner only; but in establishing and maintaining such quarantine the commissioner may act through and by an officer or agent employed by him, to whom such power is delegated, and the establishment and maintenance of such quarantine by any officer, agent or employee of the commissioner shall be prima facie the establishment and maintenance of quarantine by the commissioner. Such quarantine shall include such premises, locality or territorial district, and such animals, and shall continue for such time, as may be deemed necessary by the commissioner. Whenever any premises or any locality or territorial district shall be placed under a general quarantine, it shall be the duty of the officer, agent or employee by whom the order of quarantine is executed, to post at least ten notices in the most public places within the premises, locality or territorial district quarantined, declaring the quarantine and the duration thereof,
the extent and limits of the premises, locality, or ter-
ritorial district so quarantined, and the animals subject
thereto. A copy of such notice shall be published as a
Class I legal advertisement in compliance with the pro-
visions of article three, chapter fifty-nine of this code,
and the publication area for such publication shall
be the quarantined area. If the quarantine shall be for
the purpose of preventing the spread of rabies or
hydrophobia, and in the case of other communicable dis-
eases, if the commissioner deems such action necessary,
the notice shall require all dogs within the quarantined
area to be confined by their owners.

ARTICLE 17. FENCES.
§19-17-2. Rivers and streams as lawful fences; establishment
or discontinuance.
1 All rivers and streams, and parts thereof, within this
2 state, which are lawful fences at the time this code takes
3 effect, under existing laws, shall continue such until
4 otherwise ordered by the county court of the county.
5 The county court of any county, upon the written ap-
6 plication of any owner or tenant of lands on any river
7 or stream in such county, or which constitutes a bound-
8 ary line thereof, may, in its discretion, by order entered
9 of record, declare and establish such river or stream,
or any part of either, a lawful fence as to any stock
11 named in section one of this article. Notice of the appli-
12 cation shall be given by publishing the same as a
13 Class II legal advertisement in compliance with the
14 provisions of article three, chapter fifty-nine of this
15 code, and the publication area for such publication
16 shall be the county. Any person interested may ap-
17 pear and oppose such application.
18 The county court may, upon like application and notice
19 of any person, annul or amend any order made by said
20 court establishing any river or stream, or any part of
21 either, as a lawful fence; but such order shall not be
22 made within one year from the date of the order sought
23 to be annulled or amended, and shall not take effect
24 until six months after it is made.
ARTICLE 21. DRAINAGE DISTRICTS.

§19-21-4. Appointment of engineer; duties and compensation; publication of notice.

Immediately after such petition shall have been filed it shall be the duty of the court, or the judge thereof in vacation, to enter upon its records an order appointing an engineer to be selected by the petitioners, provided the engineer whom they select is a qualified and suitable person. If the engineer designated by the petitioners is, in the opinion of the court, not a proper person, the court shall appoint such other engineer as it may deem qualified to perform the duties imposed upon him by this article. Such engineer shall forthwith proceed to ascertain in a general manner the limits of the region which will be benefited by the proposed improvements, and the names of the landowners and the approximate acreage of each landowner's holdings, as nearly as they can be determined without actual survey, and file a report of his findings with the clerk of the circuit court at the earliest date practicable. In his report the engineer shall give a general idea of the improvements required and an approximate estimate of their cost, together with such other suggestions as he may think will be of service to the court in passing on the prayer of the petitioners. For service rendered in this connection the compensation of the engineer shall be fixed by the court.

Immediately upon the filing of the engineer's report, the clerk of the circuit court shall give notice by causing publication to be made as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which are situated lands of the proposed district. The last publication shall be made at least fifteen days prior to the first day of the next regular or special term of the circuit court at which such petition is to be heard. Such notice shall be substantially in the following form which shall be deemed sufficient for all purposes of this article:
NOTICE OF APPLICATION TO FORM DRAINAGE DISTRICT.

Notice is hereby given to all persons interested in the following described real estate in ____________ county of West Virginia (here describe the property as set out in the petition) that a petition asking that the foregoing lands and other property be formed into a drainage district under the provisions of the statutes of West Virginia, and that the lands and other property above described will be affected by the formation of such drainage district and be rendered liable for taxation for the purposes of paying the expenses of organizing, making and maintaining the improvements that may be found necessary to drain, protect and reclaim the lands and other property in said district, and you and each of you are hereby notified to appear at a term of the circuit court of ________________ county, to be held on the ______ day of ________, 19__, at the courthouse thereof, and show cause, if any there be, why such drainage district, as set forth in the petition, should not be organized.

______________________________
Clerk of the Circuit Court _____________ County.

The circuit court of the county in which the petition shall have been filed shall thereafter maintain and have original and exclusive jurisdiction coextensive with the boundaries and limits of such district, without regard to county lines, for all purposes of this article.

§19-21-6. Meeting of owners; election of board of supervisors.

Within thirty days after any drainage district shall have been organized and established under the provisions of this article the circuit clerk of the court organizing such district shall call a meeting of the owners of real estate or other property situate in such district, at a day and hour specified, in some public place in the county in which the district was organized, for the purpose of electing a board of three supervisors, to be composed of owners of real estate in such district, two of whom at least shall be residents of the county or counties in which such district is situate, or some adjoining counties. Notice of such meeting shall be given by such clerk
by causing publication thereof to be made as a Class Il legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which lands of the district are situate. The last publication shall be at least ten days before the day of such meeting. The landowners, when assembled, shall organize by the election of a chairman and a secretary of the meeting who shall conduct the election. At such election each owner shall be entitled to one vote in person or by proxy for every acre of land or mile of right of way owned by him in such district, and the three persons receiving the highest number of votes shall be declared elected as supervisors. Such supervisors shall immediately by lot determine the terms of their office, which shall be respectively one, two and three years, and they shall serve until their successors shall have been elected and qualified.

§19-21-13. Assessment of benefits and damages; extension of district to include other lands; report of appraisers; compensation.

Within thirty days after qualifying, as provided in the previous section, the appraisers shall begin their duties; and the chief engineer or one of his assistants shall accompany such appraisers at all times and shall render his opinion in writing when called for. The appraisers shall proceed to view the premises and determine the value of all land and other property, within or without the district, to be acquired and used for rights of way or other works set out in the “plan for reclamation” and shall assess the amount of benefits, and the amount of damages, if any, that will accrue to each parcel of land, public highway, railroad and other right of way, railroad, roadway and other property, from carrying out and putting into effect the “plan for reclamation” heretofore adopted. The appraisers, in assessing the benefits to rights of way, railroad, roadway and other rights of way, railroad, roadway and other property not traversed by such works and improvements as provided for in “the plan for reclamation”, shall not consider what benefits will be derived by such property after other
drains, ditches, improvements or other plans for reclamation shall have been constructed, but they shall assess only such benefits as will be derived from the construction of the works and improvements set out in "the plan for reclamation", or as the same may afford protection from overflow to such property. The appraisers shall give due consideration and credit to any other ditch or other systems of reclamation, which may have already been constructed and which afford partial or complete protection to any tract or parcel of land in the new district, and if the appraisers shall find that any drain or other works have been constructed under any general or special law of this state, which can be used in making the drains and improvements herein contemplated, they shall include the same in their report, and thereafter the board of supervisors may order such drains or such works to be used, so far as they extend, for the purpose of the drainage district in which they are situated, and that the district or other owners of such drains or other improvements or persons having an interest therein by virtue of having contributed money, material or labor in the construction of the same, shall be allowed, in proportion to the interest held or owned in said drains or improvements, a compensation which shall not exceed the amount of such drainage district's indebtedness as evidenced by outstanding script, bonds or other evidences of indebtedness. The railroad and other rights of way, railroad and other property shall be assessed according to the increased physical efficiency and decreased maintenance cost by reason of the protection to be derived from the proposed works and improvements. The appraisers shall also assess all damages that will accrue to any landowner by reason of the proposed improvement, including all injury to lands taken or damaged; and when they returned no such assessment of damages as to any tract of land, it shall be deemed a finding by them that no damage will be sustained.

If the board of appraisers finds that other lands not embraced within the boundaries of the district will be affected by the proposed improvement, they shall assess the estimated benefits and damages to such land and
shall specifically report to the court the assessments which they have made on the lands beyond the boundaries of the district as already established. It shall then be the duty of the clerk of the circuit court to give the following described notice by publication as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where such lands lie. The notice shall describe the lands which have been assessed, and the owners of real property so assessed shall be allowed twenty days after the publication of such notice to file with the clerk of the circuit court their protest against being included within the district. The circuit court shall at its next session investigate the question whether the lands beyond the boundaries of the district so assessed by the appraisers will in fact be benefited or damaged by the making of the improvement; and from its findings in that regard either the property owners affected by the assessment of the appraisers or the district may within twenty days file an appeal. If the finding is in favor of the district, the limits of the district shall be extended so as to embrace any lands that may be affected by the making of the improvements, and such lands shall be subject to the taxes provided for in section eleven of this article. The appraisers shall have no power to change "the plan of reclamation" heretofore provided for.

The board of appraisers shall prepare a report of their findings, which shall be arranged in tabular form, the columns of which shall be headed as follows: Column one, "owner of property assessed"; column two, "description of property assessed"; column three, "number of acres assessed"; column four, "amount of benefits assessed expressed in dollars and cents"; column five, "number of acres taken for right of way"; column six, "value of property taken"; column seven, "damages assessed". They shall also, by and with the advice of the engineer of the district, estimate the cost of works set out in "the plan of reclamation," which estimate shall include the cost of property required for rights of way and damages and the actual expenses of organization and ad-
ministration, as estimated by the board of supervisors, and shall itemize and tabulate the same. Such reports shall be signed by at least a majority of the appraisers and filed in the office of the circuit clerk in which the petition was filed. The secretary of the board of supervisors, or his deputy, shall accompany such appraisers while engaged in their duties, and shall perform all the clerical work of such board; he shall also, under the advice, supervision and direction of the attorney for the district, prepare their report. The board of appraisers shall report to the board of supervisors the number of days each had been employed and the actual expenses incurred. Each appraiser shall be paid five dollars per day for his services, and necessary expenses in addition thereto.

§19-21-14. Publication of appraisers' report.

Upon the filing of the report of the appraisers, the clerk of such court shall give notice thereof by causing publication of such report to be made as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in the district. Notice shall be in form as follows:

NOTICE OF FILING OF APPRAISERS' REPORT

For _______________ Drainage District.

Notice is hereby given to all persons interested in any land and property included within _______________ Drainage District in _______________ county (or counties), West Virginia, that the appraisers heretofore appointed to assess benefits and damages to the property and lands situated in such drainage district and to appraise the cash value of the land necessary to be taken for rights of way and other works of such district, within or without the limits of such district, filed their report in this office on the ______ day of _______________, 19____, as follows: (Here insert report of appraisers.) And you and each of you are hereby notified that you may examine such
report and file exceptions to all or any part thereof, as provided by law.

Clerk of the Circuit Court of __________ County, West Virginia.

Provided, That where lands in different counties are contained in such report, it shall not be necessary to publish in each county the appraisers' report on all of such lands in such district, but only that part relating to property situate in the respective counties.

§19-21-21. Dates when taxes payable; suit to collect delinquent taxes; suit by bondholder.

All taxes levied under the terms of this article shall be payable between the first day of October and the last day of December of each year; and if any taxes levied by the board of supervisors in pursuance to this article are not paid at maturity, the sheriff shall not embrace such taxes in the taxes for which he shall sell the lands, but he shall report such delinquencies to the board of supervisors of such district, who shall add to the amount of the tax a penalty of twenty-five per cent. The board of supervisors shall enforce the collection of such delinquent taxes by chancery proceedings in the circuit court of the county in which the lands are situated; and said court shall give judgment against such lands, or other property, for the amount of such taxes and the penalty of twenty-five per cent, and interest on the same, from the end of the period allowed for the collection thereof, at the rate of six per cent per annum, and all costs of the proceedings. Such judgment shall provide for the sale of such delinquent lands for cash, by a commissioner of the court, after advertisement hereinafter set out. Such proceeds and judgment shall be in the nature of proceedings in rem, and it shall be immaterial that the ownership of such lands be incorrectly alleged in such proceedings, and such judgment shall be enforced wholly against such lands or other property so assessed, and not against any other property or estate of the defendant. All or any part of such delinquent
lands or other property for each of such counties may be
included in one suit for each county, instituted for the
collection of such delinquent taxes, together with
interest, penalties and costs, as aforesaid; and notice
of the pendency of such suit shall be given by pub-
lication before judgment is entered for the sale of
such lands or other property, which notice shall be
published as a Class III-0 legal advertisement in com-
pliance with the provisions of article three, chapter
fifty-nine of this code, and the publication area for such
publication shall be the county where such suits may
be pending. The public notice may be in the following
terms:

Board of Supervisors, _______________ Drainage District
v. Delinquent lands.

All persons having or claiming an interest in any of
the following described lands are hereby notified that
suit is pending in the circuit court of ________________
county, West Virginia, to enforce the collection of certain
drainage taxes on the subjoined list of lands, the name
of each supposed owner having been set opposite his or
her or its lands, together with the amounts severally due
from each, to-wit:

(Then shall follow a list of supposed owners, with a
descriptive list of such delinquent lands, and the
amounts due thereon respective as aforesaid, and
such public notice may conclude in the following
form:)

All persons and corporations interested in such lands
are hereby notified that they are required by law to
appear within thirty days after the first publication
hereof and make defense to such suit, or the same will
be taken for confessed and final judgment will be
entered directing the sale of such lands for the purpose
of collecting such taxes, together with the payment of
interest, penalty and costs allowed by law.

__________________________
Clerk of said Court.

Such suit shall be set for trial at the first term of
court after the completion of such publication, unless
a continuance be granted for good cause shown, within
the discretion of the court; and such continuance may
be granted as to a part of such lands or defendants,
without affecting the duty of the court to dispose finally
of the others as to whom no continuance may be granted,
and in all cases where notice has been properly given
as aforesaid, and where no answer has been filed, or if
filed, and the cause decided for the plaintiff, the court
by its decree shall grant the relief as prayed for in the
complaint and shall direct such commissioner to sell the
lands or other property described in the complaint
at the front door of the courthouse of the county
wherein the decree is entered, at public outcry, to the
highest and best bidder for cash in hand, after having
first advertised such sale (such advertisement may in-
clude all the lands described in the decree) as a Class
III-0 legal advertisement in compliance with the provi-
sions of article three, chapter fifty-nine of this code, and
the publication area for such publication shall be the
county. If all the lands or other property be not sold
on the day as advertised, such sale shall continue from
day to day until completed. The commissioner shall
sell such lands as directed, and the court, upon approval
and confirmation of such sale, shall appoint a commis-
sioner to execute proper deeds conveying to the pur-
chaser the lands and other property so sold, and the title
to such lands and other property shall thereupon become
vested in such purchaser as against all others whomso-
ever, saving to infants and to insane persons having no
guardian or committee the right they now have by law
to appear and except to such proceedings within three
years after their disabilities are removed.

In all suits brought under this section a reasonable
attorney's fee shall be taxed in favor of the attorney for
the plaintiff, which fee shall be added to the amount
of the costs.

In case the supervisors shall fail to commence suit
within sixty days after the taxes become delinquent,
the holder of any bond issued by the district shall have
right to bring suit for collection of the delinquent as-
sements, and the proceedings in such suit brought by
the bondholder shall in all respects be governed by the provisions applicable to suits by the supervisors.

ARTICLE 21A. SOIL CONSERVATION DISTRICTS.


Wherever used or referred to in this article, unless a different meaning clearly appears from the context:

1. "District" or "soil conservation district" means a subdivision of this state, organized in accordance with the provisions of this article, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

2. "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this article.

3. "Committee" or "state soil conservation committee" means the agency created in section four of this article.

4. "Petition" means a petition filed under the provisions of subsection-a of section five of this article for the creation of a district.

5. "State" means the state of West Virginia.

6. "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

7. "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

8. "Land owners" or "owners of land" includes any person or persons, firm, or corporation who shall hold title to three or more acres of any lands lying within a district organized under the provisions of this article.

9. "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this article, whether as owner, lessee, renter, or tenant.
(10) "Due notice" means notice published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which is located the appropriate area. At any hearing held pursuant to such notice at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjournment dates.

(11) The terms "soil conservation", "erosion control", or "erosion prevention projects", when used throughout the article, shall denote those projects that have been established by federal agencies in cooperation with state agencies for the purpose of demonstrating soil erosion control and water conservation practices.

(12) The term "governing body" means the supervisors of any soil conservation district, town or city, council, city commission, county court, or body acting in lieu of a county court, in this state, and the term "governmental division" means any soil conservation district, town, city, or county in this state.

(13) "Works of improvement" means such structures as may be necessary or convenient for flood prevention or the conservation, development, utilization or disposal of water.

ARTICLE 23. HORSE RACING.

§19-23-8. Disposition of funds for payment of outstanding parimutuel tickets; awards to resident owners, etc., of winning horses.

All moneys held by any licensee for payment of outstanding parimutuel tickets, if not claimed within ninety days after the close of any race meeting, shall be turned over by the licensee to the commission within fifteen days after the expiration of such ninety-day period, and the licensee shall give such information as the commission may require concerning such outstanding and unredeemed tickets. All such moneys shall be deposited by the commission and kept by it in a special account to be known as "West Virginia Racing Commission Special Account—Unredeemed Pari-Mutuel Tickets." Notice
of the amount, time and place of such deposit shall be
given by the commission, in writing, to the state treasurer.
The commission shall cause to be published a notice to
the holders of such unredeemed tickets, notifying them
to present such tickets for the payment at the office of
the commission in the city of Charleston within ninety
days from the date of the publication of such notice.
Such notice shall be published in the week following
the close of any race meeting as a Class I legal adver-
tisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication
area for such publication shall be the county in which
such race meeting was held.

Any such tickets that shall not be presented for pay-
ment within ninety days from the date of the publication
of the notice shall thereafter be irredeemable, and the
moneys theretofore held for the redemption of such
tickets shall become the property of the commission, and
be deposited, as aforesaid, and be expended as follows:

To the owner of the winning horse in any horse race,
at any horse race track licensed in this state, provided
that the owner of such horse is at the time, of such
race, a bona fide resident of this state, a sum equal to
ten per cent of the purse won by such horse.

To the breeder, that is the owner of the mare, of the
winning horse in any horse race, at any horse race track
licensed in this state, provided, that such breeder was,
at the time such winning horse was foaled, a bona fide
resident of this state, a sum equal to ten per cent of the
purse won by such horse.

To the owner of the stallion which sired the winning
horse in any horse race, at any horse race track licensed
in this state, provided, that the mare which foaled such
winning horse, was served by such stallion in this state,
and the owner of such stallion, was, at the time of such
service, a bona fide resident of this state, a sum equal to
ten per cent of the purse won by such horse.

One person may qualify for any one or all of the
awards aforesaid.

The cost for the publication of the notice provided for
by this section shall be paid from the funds in the hands
of the state treasurer collected from the license tax on pari-mutuel wagering, when not otherwise provided in the budget; but no such costs shall be paid unless an itemized account thereof, under oath, be first filed with the state auditor.

ARTICLE 24. RACE TRACKS.

§19-24-1. Race track construction applications and permits; action by racing commission; review.

No person, after the date on which this article becomes effective, shall construct a race track where horse race meetings are to be held and the pari-mutuel system of wagering conducted, as provided in article twenty-three of this chapter, unless and until such person shall first have applied for and obtained from the West Virginia racing commission a construction permit which may be issued by said commission in strict accordance with the provisions of this article, and not otherwise. Any person desiring to obtain such construction permit shall prepare and file with the West Virginia racing commission an application therefor in such form and to such effect as said commission may require or approve. Among other things, said application shall specify:

(1) The names and addresses of all persons who are financially interested in the proposed race track, including the names of all partners, if the applicant be a partnership, and of all stockholders, if the applicant be a corporation, and the names of any persons who have agreed to lend the applicant money for use in connection with such race track;

(2) The county where the race track is to be established; and

(3) Plans showing, in such detail as the commission may require, the proposed race track and all buildings and improvements to be used in connection therewith. The commission shall prescribe blank forms for use in making such application.

When such application shall have been prepared and filed in accordance with the foregoing requirements, the commission shall consider the same, and if the commission be of opinion that the applicant intends to proceed in good faith to establish a race track complying in all
particulars with the laws of this state, that the plans therefor are adequate and have been prepared with due regard to the safety of all persons who will use such race track, and that the applicant is financially able to complete such race track in accordance with the plans shown on such application, the commission shall enter an order giving its tentative approval to such application, or, if the commission be not satisfied in the particulars above set forth, it shall refuse such application.

If such application be refused, the commission shall enter an order on its records specifying the reasons for its refusal thereof and such order shall be attached to said application and both the application and such order shall be open to inspection, upon application to the commission, of anyone desiring to inspect the same. The action of the commission in refusing any application shall be subject to review by mandamus in any court of this state having jurisdiction, with the right of appeal to the supreme court of appeals in the manner prescribed by law.

If the commission shall give tentative approval to such application, it shall prepare and publish a notice to the public that the commission has given tentative approval to the application and that the commission will confirm such tentative approval and issue a construction permit to the applicant at the expiration of sixty days from the date of the first publication of such notice (which date shall be specified in said notice), unless within said time an application for a local option election shall have been filed with the county court of the county in which said race track is proposed to be established in accordance with the provisions of this article. Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such race track is to be established.

§19-24-3. Local option election procedure.

1 Upon the filing of a petition for a local option election in accordance with the provisions of the next preceding section, the county court shall enter an order calling a local option election and providing that the same shall
be held at the same time and as a part of the next primary
or general election to be held in said county. A copy of
the order so entered by the county court shall be served
upon the West Virginia racing commission and that com-
mission shall take no further action in connection with
the issuance of such construction permit until said local
option election shall be held. Said county court shall
give notice of such local option election by publication
of such notice as a Class II-0 legal advertisement in com-
pliance with the provisions of article three, chapter fifty-
nine of this code, and the publication area for such pub-
lication shall be the county. Such notice shall be so pub-
lished within fourteen consecutive days next preceding
the date of said election.

Each person qualified to vote in said county at said
primary or general election shall likewise be qualified
to vote at the local option election. The elections officers
appointed and qualified to serve as such at said primary
or general election shall conduct said local option elec-
tion in connection with and as a part of said primary or
general election. The ballots in said local option election
shall be counted and returns made by the election offi-
cers and the results certified by the commissioners of
election to said county court which shall canvass the bal-
lots, all in accordance with the laws of the state of West
Virginia relating to primary and general elections inso-
far as the same are applicable. The county court shall,
without delay, canvass the ballots cast at such local op-
tion election and certify the results thereof to the West
Virginia racing commission and thereupon said commis-
ion shall issue or refuse to issue the construction permit
in accordance with the results of such local option elec-
tion.

CHAPTER 20. NATURAL RESOURCES.
ARTICLE 1. ORGANIZATION AND ADMINISTRATION.
§20-1-7. Additional powers, duties and services of director.

In addition to all other powers, duties and responsibil-
ities granted and assigned to the director in this chapter
and elsewhere by law, the director is hereby authorized
and empowered to:
(1) With the advice of the commission, prepare and administer, through the various divisions created by this chapter, a long-range comprehensive program for the conservation of the natural resources of the state which best effectuates the purpose of this chapter and which makes adequate provisions for the natural resources laws of the state;

(2) Sign and execute in the name of the state by the "department of natural resources" any contract or agreement with the federal government or its departments or agencies, subdivisions of the state, corporations, associations, partnerships or individuals;

(3) Conduct research in improved conservation methods and disseminate information matters to the residents of the state;

(4) Conduct a continuous study and investigation of the habits of wildlife, and for purposes of control and protection to classify by regulation the various species into such categories as may be established as necessary;

(5) Prescribe the locality in which the manner and method by which the various species of wildlife may be taken, or chased, unless otherwise specified by this chapter;

(6) Fix by regulation the open seasons and the bag, creel, size, age, weight and sex limits with respect to wildlife in this state;

(7) Hold at least six meetings each year at such times and at such points within the state, as in the discretion of the director may appear to be necessary and proper for the purpose of giving interested persons in the various sections of the state an opportunity to be heard concerning open seasons for their respective areas, before such seasons and bag limits are fixed;

(8) Suspend open hunting seasons upon any or all wildlife in any or all counties of the state with the prior approval of the governor in case of an emergency such as a drought, forest fire hazard or epizootic of disease among wildlife. The suspension shall continue during the existence of the emergency and until rescinded by the director. Suspension, or reopening after such suspension, of open seasons may be made upon twenty-four hours’
notice by delivery of a copy of the order of suspension
or reopening to the wire press agencies at the state cap-
itol;
(9) Supervise the fiscal affairs and responsibilities of
the department;
(10) Designate such localities as he shall determine to
be necessary and desirable for the perpetuation of any
species of wildlife;
(11) Enter private lands to make surveys or inspec-
tions for conservation purposes, to investigate for viola-
tions of provisions of this chapter, to serve and execute
warrants and processes, to make arrests and to otherwise
effectively enforce the provisions of this chapter;
(12) Acquire for the state in the name of the “depart-
ment of natural resources” by purchase, condemnation,
lease or agreement, or accept or reject for the state, in
the name of the department of natural resources, gifts,
donations, contributions, bequests or devises of money,
security or property, both real and personal, and any in-
terest in such property, including lands and waters, which
he deems suitable for the following purposes:
(a) For state forests for the purpose of growing tim-
ber, demonstrating forestry, furnishing or protecting wa-
tersheds or providing public recreation;
(b) For state parks or recreation areas for the purpose
of preserving scenic, esthetic, scientific, cultural, archae-
ological or historical values or natural wonders, or pro-
viding public recreation;
(c) For public hunting, trapping, or fishing grounds or
waters for the purpose of providing areas in which the
public may hunt, trap or fish, as permitted by the pro-
visions of this chapter, and the rules and regulations is-
sued hereunder;
(d) For fish hatcheries, game farms, wildlife research
areas and feeding stations;
(e) For the extension and consolidation of lands or
waters suitable for the above purposes by exchange of
other lands or waters under his supervision;
(f) For such other purposes as may be necessary to
carry out the provisions of this chapter;
(13) Capture, propagate, transport, sell or exchange any species of wildlife as may be necessary to carry out the provisions of this chapter;

(14) Sell, with the approval in writing of the governor, timber for not less than the value thereof, as appraised by a qualified appraiser appointed by the director, from all lands under the jurisdiction and control of the director, except those lands that are designated as state parks. The appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the office of the director and shall be available for public inspection. When the appraised value of the timber to be sold is more than five hundred dollars, the director, before making sale thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which the timber is located. The timber so advertised shall be sold at not less than the appraised value to the highest responsible bidder, who shall give bond for the proper performance of the sales contract as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise for bids. If the foregoing provisions of this section have been complied with, and no bid equal to or in excess of the appraised value of the timber is received, the director may, at any time, during a period of six months after the opening of the bids, sell the timber in such manner as he deems appropriate, but the sale price shall not be less than the appraised value of the timber advertised. No contract for sale of timber made pursuant to this section shall extend for a period of more than ten years. And all contracts heretofore entered into by the state for the sale of timber shall not be validated by this section if the same be otherwise invalid. The proceeds arising from the sale of the timber so sold, shall be paid to the treasurer of the state of West Virginia, and shall be credited to the department and used exclusively for the purposes of this chapter;

(15) Sell, with the approval in writing of the governor, or lease coal, oil, gas, sand, gravel and any other minerals that may be found in the lands under the jurisdic-
tion and control of the director, except those lands that are designated as state parks. The director, before making sale or lease thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which such lands are located. The minerals so advertised shall be sold or leased to the highest responsible bidder, who shall give bond for the proper performances of the sales contract or lease as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise the bids. The proceeds arising from any such sale or lease shall be paid to the treasurer of the state of West Virginia and shall be credited to the department and used exclusively for the purposes of this chapter;

(16) Exercise the powers granted by this chapter for the protection of forests, and regulate fires and smoking in the woods or in their proximity at such times and in such localities as may be necessary to reduce the danger of forest fires;

(17) Cooperate with departments and agencies of state, local and federal governments in the conservation of natural resources and the beautification of the state;

(18) Report to the governor each year all information relative to the operation and functions of his department and he shall make such other reports and recommendations as may be required by the governor, including an annual financial report covering all receipts and disbursements of the department of each fiscal year, and he shall deliver such report to the governor on or before the first day of December next after the end of the fiscal year so covered. A copy of such report shall be delivered to each house of the Legislature when convened in January next following;

(19) Keep a complete and accurate record of all proceedings, record and file all bonds and contracts taken or entered into, and assume responsibility for the custody and preservation of all papers and documents pertaining to his office, except as otherwise provided by law;
(20) Offer and pay, in his discretion, rewards for information respecting the violation, or for the apprehension and conviction of any violators, of any of the provisions of this chapter;

(21) Require such reports as he may deem to be necessary from any person issued a license or permit under the provisions of this chapter, but no person shall be required to disclose secret processes or confidential data of competitive significance;

(22) Purchase as provided by law all equipment necessary for the conduct of his department;

(23) Conduct and encourage research designed to further new and more extensive uses of the natural resources of this state and to publicize the findings of such research;

(24) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions of the state;

(25) Accept and expend, without the necessity of appropriation by the legislature, any gift or grant of money made to the department for any and all purposes specified in this chapter, and he shall account for and report on all such receipts and expenditures to the governor;

(26) Cooperate with the state historian and other appropriate state agencies in conducting research with reference to the establishment of state parks and monuments of historic, scenic and recreational value, and to take such steps as may be necessary in establishing such monuments or parks as he deems advisable;

(27) Maintain in his office at all times, properly indexed by subject matter, and also, in chronological sequence, all rules and regulations made or issued under the authority of this chapter. Such records shall be available for public inspection on all business days during the business hours of working days as prescribed by the state board of public works;

(28) Delegate the powers and duties of his office, except the power to execute contracts, to appointees and employees of the department, who shall act under the
direction and supervision of the director and for whose acts he shall be responsible;
(29) Conduct schools, institutes and other educational programs, apart from or in cooperation with other governmental agencies, for instruction and training in all phases of the natural resources programs of the state; and
(30) Promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers and duties vested in him by the provisions of this chapter and take such other steps as may be necessary in his discretion for the proper and effective enforcement of the provisions of this chapter: Provided, That all rules and regulations relating to articles five and five-a of this chapter shall be promulgated by the water resources board.

ARTICLE 2. GAME AND FISH.

No person shall permit his dog to hunt or chase deer. A conservation officer shall take into possession any dog known to have hunted or chased deer and the director shall advertise that such dog is in his possession, giving a description of the dog and stating the circumstances under which it was taken. Such notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. He shall hold the dog for a period of ten days after the date of the publication. If, within ten days, the owner does not claim the dog, the director shall destroy it. In this event the cost of keeping and advertising shall by paid by the director. If, within ten days, the owner claims the dog, he may repossess it on the payment of costs of advertising and the cost of keep, not exceeding fifty cents per day. A conservation officer, or any officer or employee of the director authorized to enforce the provisions of this section, after a bona fide but unsuccessful effort to capture dogs detected chasing or pursuing deer, may kill such dogs.
ARTICLE 3. FORESTS AND WILDLIFE AREAS.

§20-3-19. Protection of forests against destructive insects and diseases; purposes and intent of section.

In order to protect and preserve forest resources of the state of West Virginia from ravages of bark beetles, defoliators, rusts, blights, wilts and other destructive forest pests and diseases, and thereby enhance the growth and maintenance of forests; promote the stability of forest-using industries and employment associated therewith; reduce the fire risk created by dying and dead trees injured or killed by insects or diseases; conserve forest cover on watersheds and protect recreational and other forest values, it shall be the policy of the state of West Virginia independently and through cooperation with adjoining states, the federal government, and private timber owners and other private organizations, to prevent, retard, control, suppress, or eradicate incipient, potential or emergency outbreaks of destructive insects and diseases on, or threatening, all forest land irrespective of ownership.

(a) Authority.—The director is authorized either directly or in cooperation with other agencies, subject to such conditions as he may deem necessary and using such funds as have been, or may hereafter be made available for those purposes, to conduct surveys on any forest land to detect and appraise infestations of forest insect pests and tree diseases, to determine the measures which should be applied on such lands, in order to prevent, retard, control, suppress or eradicate incipient, threatening, potential or emergency outbreaks of such insects or disease pests, and to plan, organize, direct and carry out such measures as he may deem necessary to accomplish the objectives and provisions of this section: Provided, That actual control measures shall be conducted with the cooperation and consent of the quarantine and regulatory official of the department of agriculture.

(b) Establishing control zone; notice to landowners.—Where an insect infestation or disease infection is believed to exist on a forest land within this state, the director shall investigate the condition. Whenever he finds that an infestation or infection exists, he shall request
the quarantine officials of the state department of agriculture to declare the same a public nuisance. When same has been declared a public nuisance he shall establish a control zone of the forest land wherein the same is found, and shall give notice thereof by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which the area or areas are located in which the control zone is established. Such notice shall also be given by mail or otherwise to forest landowners within the control zone, advising them of the nature of the infestation or infection, recommending control measures and offering technical advice on methods of carrying out the control measures.

(c) Institution of control measures.—If, after notification by the director, any landowner fails, neglects, or is unable to carry out the control measures recommended by the director as set forth in subsection (b), the director may, through his agents, institute and carry out such control measures.

(d) Appeals.—Any person damaged or aggrieved by any action of any officer or employee of the department under the provisions of this section shall have the right to appeal from such action to the director and then to the circuit court of the county in which such person resides in which he owns forest land affected by such action. The court, after hearing the evidence in the case, may make such orders as may be appropriate to protect the interests of the appellant, adjacent forest landowners, or the state.

(e) Cooperation with individuals and public agencies. The director is authorized to cooperate with landowners and appropriate authorities of town, city, county, adjoining state and the United States government, and other agencies having jurisdiction of state lands, concerning forest tree insect and disease investigation and control, and to accept money, gifts and donations, and to disburse the same for the purpose of carrying out the provisions of this section.
(f) Annual appropriation; forest pest control fund.—There is hereby created in the state treasury a special fund to be known as the forest pest control fund. Such fund shall consist of all moneys appropriated thereto by the Legislature and all moneys received and deposited with the state treasurer under the provisions of this section. All such funds are hereby appropriated to the department of natural resources to be used to carry out the purposes of this section.

(g) Definitions.—As used in this section, unless the context clearly requires otherwise:

1. "Forest trees" means only those trees which are a part of and constitute a stand of potential, immature, or mature commercial timber trees: Provided, That the term "forest trees" shall be deemed to include shade trees of any species around houses, along highways and within cities and towns if the same constitute an insect or disease menace to nearby timber trees or timber stands;

2. "Forest land" means land on which forest trees occur;

3. "Control zone" means an area of potential or actual infestation or infection, the boundaries of which are fixed and clearly described in a manner to definitely identify the zone;

4. "Infestation" means infestation by means of any insect in any stage of growth which is determined to be dangerously injurious to forest trees; and

5. "Infection" means infection by any disease affecting forest trees which is determined to be dangerously injurious thereto.

CHAPTER 22. MINES AND MINERALS.

ARTICLE 5. TRANSPORTATION OF OILS.

§22-5-7. Further provisions concerning such orders and certificates.

No receipt, certificate, accepted order or other voucher shall be issued or put in circulation, nor shall any order be accepted or liability incurred for the delivery of any petroleum, crude or refined, unless the amount of such petroleum represented in or by such receipt, certificate, accepted order, or other voucher or liability, shall have
been actually received by and shall then be in the tanks and lines, custody and control of the company issuing or putting in circulation such receipt, certificate, accepted order or voucher, or written evidence of liability. No duplicate receipt, certificate, accepted order or other voucher shall be issued or put in circulation, or any liability incurred for any petroleum, crude or refined, while any former liability remains in force, or any former receipt, certificate, accepted order or other voucher shall be outstanding and uncanceled, except such original papers shall have been lost, in which case a duplicate, plainly marked "duplicate" upon the face, and dated and numbered as the lost original was dated and numbered, may be issued. No receipt, voucher, accepted order, certificate or written evidence of liability of such company on which petroleum, crude or refined, has been delivered, shall be reissued, used or put in circulation. No petroleum, crude or refined, for which a receipt, voucher, accepted order, certificate or liability incurred, shall have been issued or put in circulation, shall be delivered, except upon the surrender of the receipt, voucher order or liability representing such petroleum, except upon affidavit of loss of such instrument made by the former holder thereof. No duplicate receipt, certificate, voucher, accepted order or other evidence of liability, shall be made, issued or put in circulation until after notice of the loss of the original, and of the intention to apply for a duplicate thereof, shall have been given by advertisement over the signature of the owner thereof as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where such duplicate is to be issued. Every receipt, voucher, accepted order, certificate or evidence of liability, when surrendered or the petroleum represented thereby delivered, shall be immediately canceled by stamping and punching the same across the face in large and legible letters with the word "canceled," and giving the date of such cancellation; and it shall then be filed and preserved in the principal office of such company for a period of six years.
CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.


1 No public utility subject to this chapter shall change, suspend or annul any rate, joint rate, charge, rental or classification except after thirty days' notice to the commission and the public, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates or charges shall go into effect. But the commission may enter an order suspending the proposed rate as hereinafter provided. The proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection: Provided, however, That the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

18 Whenever there shall be filed with the commission any schedule stating a change in the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint classification or any new individual or joint regulation or practice affecting any rate or charge, the commission shall have authority, either upon complaint or upon its own initiative without complaint, to enter upon a hearing concerning the propriety of such rate, charge, classification, regulation or practice; and, if the commission so orders, it may proceed without answer or other form of pleading by the interested parties, but upon reasonable notice, and, pending such hearing and the decision thereon, the commission, upon filing with such schedule and delivering to the public utility affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than one hundred and twenty days.
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beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, classification, regulation or practice goes into effect, the commission may make such order in reference to such rate, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: Provided, That if any such hearing and decision thereon cannot be concluded within the period of suspension, as above stated, such rate, charge, classification, regulation or practice shall go into effect at the end of such period. In such case the commission may require such public utility to enter into a bond in an amount deemed by the commission to be reasonable and conditioned for the refund to the persons or parties entitled thereto of the amount of the excess, plus interest at the rate of six per cent per annum, if such rates so put into effect are subsequently determined to be higher than those finally fixed for such utility. No such accrued interest paid shall be deemed part of the cost of doing business in a subsequent application for changing rates or any decision thereon. At any hearing involving a rate sought to be increased or involving the change of any fare, charge, classification, regulation or practice, the burden of proof to show that the increased rate or proposed increased rate, or the proposed change of fare, charge, classification, regulation or practice is just and reasonable shall be upon the public utility making application for such change. When in any case pending before the commission all evidence shall have been taken, and the hearing completed, the commission shall, within three months, render a decision in such case.

Where more than twenty members of the public are affected by a proposed change in rates, it shall be a sufficient notice to the public within the meaning of this section if such notice is published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the community
where the majority of the resident members of the public affected by such change reside or, in case of non-residents, have their principal place of business within this state.

CHAPTER 24A. MOTOR CARRIERS OF PASSENGERS AND PROPERTY FOR HIRE.

ARTICLE 3. CONTRACT CARRIERS BY MOTOR VEHICLES.

§24A-3-3. Permit.

(a) Required; application; hearing; granting.—It shall be unlawful for any contract carrier by motor vehicle to operate within this state without first having obtained from the commission a permit. Upon the filing of an application for such permit, the commission shall fix a time and place for hearing thereon: Provided, however, That the commission may, after giving notice as herein-after provided and if no protest is received, waive formal hearing on such application. Said notice shall be by publication which shall state that formal hearing may be waived in the absence of protest to such application. Such notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the area of operation. Such notice shall be published at least ten days prior to the date of hearing. After hearing or waiver of hearing as aforesaid, as the case may be, the commission shall grant or deny the permit prayed for or grant it for the partial exercise only of the privilege sought, and may attach to the exercise of the privilege granted by such permit such terms and conditions as in its judgment are proper and will carry out the purposes of this chapter. No permit shall be granted unless the applicant has established to the satisfaction of the commission that the privilege sought will not endanger the safety of the public or unduly interfere with the use of the highways or impair unduly the condition or unduly increase the maintenance cost of such highways, directly or indirectly, or impair the efficient public service of any authorized common carrier or common carriers adequately serving the same territory.

(b) Rules and regulations; evidence at hearing.—The commission shall prescribe such rules and regulations as
it may deem proper for the enforcement of the provisions of this section and may designate any of its employees to take evidence at the hearing on any application for a permit and submit findings of fact as a part of report or reports to be made to the commission.

(c) Permit not franchise, etc.; assignment or transfer.

—No permit issued in accordance with the terms of this chapter shall be construed to be either a franchise or irrevocable or to confer any proprietary or property rights in the use of the public highways. No permit issued under this chapter shall be assigned or otherwise transferred without the approval of the commission. Upon the death of a person holding a permit, his personal representative or representatives may operate under such permit while the same remains in force and effect and, with the consent of the commission, may transfer such permit.

(d) Suspension, revocation or amendment.—The commission may at any time, for good cause, suspend and, upon not less than fifteen days' notice to the grantee of any permit and an opportunity to be heard, revoke or amend any permit.

(e) Notice of cessation or abandonment.—Every contract carrier by motor vehicle who shall cease operation or abandon his rights under a permit issued shall notify the commission within thirty days of such cessation or abandonment.

CHAPTER 25. COMMISSIONER OF PUBLIC INSTITUTIONS.

ARTICLE 1. SUPERVISION AND CONTROL OF STATE INSTITUTIONS.

§25-1-31. State debt not permitted; acceptance of loans or temporary advances from, and contracts and agreements with, federal agencies or private parties.

Nothing in these sections dealing with dormitories, homes or refectories shall be so construed or interpreted as to authorize or permit the incurring of state debt of any kind or nature as contemplated by the constitution of this state in relation to the state debt. The dormitories, homes or refectories herein are of the character described
as self-liquidating projects under the laws of the United States.

Any state agency authorized to issue bonds under the provisions of this article is authorized and empowered to accept loans or grants or temporary advances for the purpose of paying part or all of the cost of construction of the dormitories, homes or refectories and the other purposes herein authorized, from the United States of America or such federal or public agency or department of the United States or any private agency, corporation or individual, which temporary advances may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article and to enter into the necessary contracts and agreements to carry out the purposes hereof with the United States of America or such federal or public agency or department of the United States, or with any private agency, corporation or individual: Provided, however, That if such bonds are not sold to and purchased by the United States of America or any such federal or public agency or department, then the state agency shall advertise such bonds for sale, on sealed bids, which advertisement shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the state. Such advertisement shall be so published within the fourteen consecutive days next preceding the date fixed for the reception of bids. Such advertisement shall also be published in a financial paper published either in the city of New York in the state of New York, or the city of Chicago, in the state of Illinois. The state agency may reject any and all bids. If the bonds be not sold pursuant to such advertisement, they may, within sixty days after the date advertised for the reception of bids, be sold by the state agency at private sale, but no private sale shall be made at a price less than the highest bid which shall have been received pursuant to such advertisement. If not sold, such bonds shall be re-advertised in the manner herein provided.

The provisions and parts of this act are separable and are not matters of mutual essential inducement, and it
is the intention to confer the whole or any part of the
powers herein provided for, and if any of the sections or
provisions, or parts thereof, are for any reason illegal or
invalid, it is the intention that the remaining sections
and provisions or parts thereof shall remain in full force
and effect.

ARTICLE 3. CLAIMS OF CITIZENS AGAINST U. S. GOVERN-
MENT FOR ILLEGAL TAX PAYMENTS.

§25-3-4. Notice to claimants.
1 Upon receipt of such funds from the United States by
2 the treasurer of this state, it shall be the duty of the state
3 commissioner of public institutions to give notice to all
4 claimants thereof by publication as a Class II legal adver-
5 tisement in compliance with the provisions of article three,
6 chapter fifty-nine of this code, and the publication area for
7 such publication shall be each county of the state. Such
8 notices shall set forth that such moneys have been col-
9 lected and shall notify all claimants of the same to pro-
10 pound their claims in writing by filing them with said
11 commissioner, and the commissioner shall warn all claim-
12 ants and persons interested therein that a failure so to file
13 their respective claims within a period of two years from
14 the date on which such moneys were paid into the treasury
15 of this state shall forever bar their respective rights to
16 such funds, or any part thereof, and that in default of the
17 filing of such claims such funds shall escheat to and be-
18 come the absolute property of this state.

CHAPTER 28. STATE CORRECTIONAL AND
PENAL INSTITUTIONS.

ARTICLE 5. THE PENITENTIARY.

§28-5-11. Employment of convicts by contract; advertisement.
1 In order to provide employment for convicts not em-
2 ployed as provided in the two preceding sections, the
3 state commissioner of public institutions may let and hire
4 the labor of such convicts, on the piece price system or
5 otherwise, in such branches of business, and for the manu-
6 facture of such articles, as in his judgment will best ac-
7 complish the ends and subserve the interests of the state.
8 Such letting and hiring shall be advertised by the com-
missioner of public institutions as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the state. The letting and hiring may also be advertised in such other manner as said commissioner may determine. The advertisement shall specify the number of convicts to be let, the length of time of the hiring or letting, which shall not exceed five years, the last day, at twelve o'clock meridian, on which bids will be received and such other information as the commissioner may desire. The commissioner may in his discretion designate what article or class of articles shall be manufactured.

CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES.

ARTICLE 3. RULE MAKING.

§29A-3-2. Notice by mail of proposed rule; requests for notification; fee; notice by publication.
1 On and after the effective date of this chapter, 2 no agency shall make any rule unless and until 3 notice thereof has been given to all persons who, in the 4 manner hereinafter provided in this section, have request- 5 ed notice of any proposed rule. The notice shall either 6 contain the express terms of the proposed rule, or shall 7 contain an informative summary thereof. The notice 8 shall be given by mail as specified in section two, article 9 seven of this chapter. The notice shall include a state- 10 ment of the time, date and place at which interested 11 persons may submit data, objections, suggested amend- 12 ments, views, evidence and arguments orally or in writ- 13 ing concerning the proposed rule, and such notice must 14 be given not less than thirty nor more than sixty days 15 prior to the date fixed. The request by any person to 16 receive notice shall be in writing and shall request the agency to notify him of any rule proposed by such agency during the calendar year in which the request is made. 19 Each agency by rule may prescribe the form of such written request for notification, and may require an annual fee in an amount not to exceed one dollar to accompany each such written request. All such fees
shall be deposited in the state treasury to the credit of
the state general fund. An agency may, in its discre-
tion, also publish the required notice, at the expense of
the agency. If an agency determines to give notice also
by publication, the notice shall be published as a Class I
legal advertisement in compliance with the provisions
of article three, chapter fifty-nine of this code, and the
publication area for such publication shall be the state,
or, if the rule has only local application, the publication
area for such publication shall be the locality to which
it applies. No rule hereafter adopted is valid unless
adopted in substantial compliance with the provisions
of this section.

CHAPTER 31. CORPORATIONS.

ARTICLE 1. PROVISIONS RELATING TO CORPORATIONS
GENERALLY.

§31-1-4a. Special provisions as to nonstock corporations.

1 Nonstock corporations have no capital stock, no shares
2 of stock, and no stockholders, and various provisions
3 of this article are not appropriate for nonstock corpora-
4 tions where the interest of the members are equal and
5 not determined by the number of shares owned, and
6 where numerous persons may be technically members
7 but have no real interest in the management of the
8 corporation, and this article does not make provision for
9 certain other situations peculiar to nonstock corpora-
10 tions, and for these and other reasons the following
11 provisions are made, relating only to nonstock corpora-
12 tions:
13 (1) The charter of any nonstock corporation may
14 provide: (i) For the division of its members into classes
15 with varying qualifications and requirements and with
16 varying voting and other rights and privileges; and
17 (ii) the number or proportion of its members or of a
18 specified class or classes of its members, whose presence
19 in person or by proxy shall be necessary to constitute
20 a quorum at any meeting of members of the corpora-
21 tion; and (iii) that any specified action may be taken
22 or authorized upon the concurrence of a specified num-
ber or proportion of the votes of all members or of all
of a specified class or classes of members. Such provi-
sions may be different from what is otherwise required
under this article; and any action taken or authorized
in accordance with any such charter provisions shall be
valid and effective.

(2) In any case in which the charter of any nonstock
corporation does not provide for members thereof as
such and such corporation has in fact no members other
than the members of its governing body (by whatever
names they or it may be called), the members for the
time being of its governing body shall, for the purposes
of any statutory provision or rule of law relating to
members of a nonstock corporation, be considered to be
the members of such corporation, as well as members of
such governing body, and may meet as members of such
corporation and exercise all of the rights and powers
of members thereof.

(3) In any case in which the charter of any nonstock
corporation provides for a definite minimum number
of members, whenever the membership is reduced be-
low the prescribed number the corporation shall not
on that account be dissolved, but the vacancies shall
be filled either in the manner provided in its charter or
by the surviving or continuing members, so long as the
number thereof is one or more.

(4) A member of a nonstock corporation who
is entitled to vote on any matter shall have but
one vote, and shall not be entitled to cumulate his
vote in the election of members of its governing
body.

(5) In any case in which there shall be doubt con-
cerning the number and identity of the persons, firms
and corporations entitled to membership or to member-
ship in a class or classes of members, in a nonstock
corporation, and the determination of those so entitled
is deemed necessary by its governing body, the circuit
court of the county in which the principal office of a
nonstock corporation is located, or the judge thereof
in vacation, shall have jurisdiction in equity, on applica-
tion by the corporation by petition in a summary way,
notice of the hearing on the application having been
given as directed by the court or judge, to determine
who are at that time members of the corporation or of
such class or classes of members, and to make such orders
and decrees as may seem reasonable and proper.

(6) If a meeting of the members of any nonstock
corporation shall be duly called for any lawful purpose
and at such meeting there is not present in person or by
proxy the number of members entitled to vote required
by the charter (or, in the absence of an applicable char-
ter provision, by the provisions of this article) to consti-
tute a quorum or to take the proposed action, then, if
the notice of such meeting states that the procedure
authorized by this subsection may be invoked, the mem-
ers entitled to vote who are present at such meeting
in person or by proxy may by majority vote call a fur-
ther meeting of the members for the same purpose. A
notice of the time, place and purpose of such further
meeting shall be given by publication of such notice as
a Class II legal advertisement in compliance with the
provisions of article three, chapter fifty-nine of this code,
and the publication area for such publication shall be
the county of the principal office of the corporation. At
such further meeting the members entitled to vote
who are present in person or by proxy shall constitute
a quorum, and by majority vote may take the proposed
action and may also take any other action which might
have been taken at the original meeting if a sufficient
number of members entitled to vote had been present;
and the notice of such further meeting shall so state.

(7) The charter of a nonstock corporation may pro-
vide for the disposition of its assets upon its dissolu-
tion. In any case in which a resolution to dissolve has
been adopted by the members of a nonstock corporation
entitled to vote thereon, or in any case in which a non-
stock corporation has been inactive for ten years except
for the holding of assets, or in any case in which the
purpose, for which a nonstock corporation has been
formed, has been attained, then in any such case the
circuit court of the county in which its principal office
is located, or the judge thereof in vacation, shall have
jurisdiction in equity, on the application by petition in
a summary way of the corporation or of any member
thereof or of the attorney general, notice of the hearing
on the application having been given as directed by the
court or judge, to determine the assets and liabilities
of the corporation; to provide for the payment of the
liabilities, to direct the disposition of the assets, to dis-
solve the corporation, and to make such orders and de-
crees as may seem reasonable and proper. The court
shall consider the purposes for which the corporation
was formed, any charter provision for the disposition
of its assets upon dissolution, and the circumstances
which have occurred since its incorporation. The clerk
of such court shall promptly send to the secretary of
state a certified copy of each order and decree made in
such proceeding.

(8) Insofar as the provisions of this section are in-
consistent with the provisions of any other law, the pro-
visions of this section shall be controlling as to non-
stock corporations. The provisions of this section are
severable, and the unconstitutionality or invalidity of
one portion shall not affect any other portion.

§31-1-9. Time of organization.

When a certificate of incorporation is issued hereunder,
the incorporators named in the agreement, or a majority
of them, shall appoint the time and place for holding
a general meeting of the stockholders or members, as
the case may be, to elect a board of directors or other
managing body, make by-laws, and transact any other
business which may lawfully be done by such stock-
holders or members in general meeting. The time ap-
pointed for such meeting shall not be more than six
months from the date of the certificate and at least two
weeks' notice shall be given by mailing a copy to each
subscriber, or by advertisement, as hereinafter provided,
unless notice is waived as hereinafter provided. If notice
is given by advertisement, such notice shall be published
as a Class II legal advertisement in compliance with the
provisions of article three, chapter fifty-nine of this
code, and the publication area for such publication shall
§31-1-13a. Reduction of capital by resolution of stockholders.

Every corporation of this state heretofore or hereafter incorporated may reduce its capital at any time and in the manner herein provided, by a resolution or resolutions adopted by a majority vote of all of the shares of capital stock of the corporation entitled to vote, at a meeting of the stockholders called for that purpose by notice given as provided by the by-laws of the corporation, or in the absence of a provision in the by-laws for such notice, in the manner provided in this article. The president or a vice president of the corporation, under his signature and the seal of the corporation, shall certify the resolution or resolutions and the fact and manner of the adoption of the same, and of the assenting of all stockholders, the consent of whom is required under this section for such reduction of capital, to the secretary of state, who shall issue his certificate reciting such resolution, corporate action and facts certified in like manner as an original certificate of incorporation and transmit the same to the corporation. Such certificate or a certified copy thereof shall be recorded and received in evidence as provided for the recordation and admission in evidence of an original certificate of incorporation or a certified copy of such original. Such certificate shall declare the reduction of capital as in effect from the date thereof. No such reduction, however, shall be made in the capital of the corporation unless the assets of the corporation remaining after such reduction are sufficient to pay any debts, the payment of which shall not have been otherwise provided for and the certification of said president and vice president shall so state.

Such reduction of the capital of the corporation may be effected by retiring or reducing the outstanding shares of any class or by drawing the necessary number of the outstanding shares of any class by lot for retirement, or by the exchange by the holders of outstanding shares of any class of the shares of such class held by them.
for a decreased number of shares of stock of the same
or of a different class of stock, or by the exchange of
shares having par value for share having no par value,
or of shares without par value for shares with par
value, or by reducing (in conjunction with appropriate
action under section eleven of this article) the par value
of the shares of any class of stock having par value, or
where the amount of capital represented by shares of
stock having par value exceeds such par value, by re-
ducing the amount of capital represented by such shares
by an amount not greater than such excess, or by re-
ducing the amount of capital represented by shares of
stock having no par value, or, in case the capital shall
have been increased by the transfer thereto from surplus
and the transfer shall not have been made in respect of
any designated class or classes of stock, by retransferring
to surplus all or any part of the amount by which capital
shall have been so increased, or by the purchase of shares
for retirement, either pro rata from all holders of shares
of that class of stock or by purchasing such shares from
time to time in the open market or at private sale in
both cases at not exceeding such price or prices as may
be fixed or approved by the stockholders entitled to vote
upon the reduction of capital to be effected in that
manner, or by retiring shares owned by the corporation.
If such reduction of capital of the corporation be effected
by retiring shares, then, if the resolution or resolutions
of stockholders above referred to shall so provide, an
amount not exceeding that part of the capital of the
corporation represented by such shares may be charged
against or paid out of the capital of the corporation in
respect of such shares.
When any corporation shall decrease the amount of
its capital as hereinbefore provided, the above-mentioned
certificate of the secretary of state shall be published
by the corporation as a Class II legal advertisement
in compliance with the provisions of article three, chapter
fifty-nine of this code, and the publication area for such
publication shall be the county in which the principal
office of the corporation is located. The first publication
shall be made within fifteen days after the issuance of
such certificate. In default thereof the directors of the
 corporation shall be jointly and severally liable to any
 creditors of the corporation who shall suffer loss by
 reason of the non-compliance with the provisions of this
 section and the stockholders shall be similarly liable up
 to the amount of such sums as they may respectively
 receive of the amount so reduced: Provided, That no such
decrease of capital shall release the liability of any stock-
holder, whose shares have not been fully paid, for debts
of the corporation theretofore contracted.

If the principal office of any corporation mentioned in
this section is not located within West Virginia, the
publication area for the notice provided by the fore-
going paragraph shall be any county in this state in
which it has an office or does business; and if it neither
has any office nor does any business in any county in
this state, then the publication area for such notice shall
be the county of this state wherein the seat of govern-
ment is located.

§31-1-21. Time and place of corporate meetings; notice; quo-
rum.

The stockholders and/or directors of any corporation
created under the laws of this state may hold all regu-
lar, annual and special meetings for the transaction of
the lawful business of the corporation, including the first
general meeting for purposes of organization, and keep
the principal office of such corporation, either in or out
of this state. Regular meetings of the stockholders shall
be held at such time and place as the by-laws may pre-
scribe, or if there be no such by-laws, then annually on
the fourth Tuesday of January, at eleven o'clock in the
forenoon, at the principal office of the company. Notice
of regular and special meetings shall be given as re-
quired by the by-laws, and if none is prescribed therein,
then by mailing to each stockholder, at least ten days
prior to the date of the meeting, a written notice thereof;
or by publication of such notice as a Class II legal adver-
tisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication
area for such publication shall be the county of the prin-
cipal office or place of business of the corporation. Special
meetings may be held at such places and after such notice as the by-laws prescribe, or, if none, then at the same place and after the same notice as a regular meeting. Special meetings of the stockholders may be called by the board of directors, the president and secretary, or any number of stockholders owning in the aggregate at least one tenth of the number of shares outstanding. The notice of special meetings shall state the business to be transacted, and no business other than that included in the notice or incidental thereto shall be transacted at such meeting.

Regular meetings of the board of directors may be held at such time and place as the by-laws may prescribe, or the board may from time to time designate by resolution.

Special meetings of the board of directors may be called by the president, vice president, any two directors of a stock or nonstock corporation, or by any two members of a nonstock corporation. Notice of such meetings shall be given as required by the by-laws, and if none is prescribed therein, then by mailing a written notice to each director at his last known postoffice address at least five days before the time of the meeting.

A quorum of the stockholders shall consist of at least a majority of all of the shares of stock entitled to vote. Unless otherwise prescribed in the by-laws, or provided in the charter, a quorum of the directors shall consist of a majority of the board of directors. Any number less than a quorum present may adjourn any stockholders' or directors' meeting until a quorum is present: Provided, however, That a quorum of the stockholders or members of a cooperative association organized under the provisions of this chapter shall consist of at least fifteen per cent of such stockholders or members.

§31-1-34. Forfeiture of stock and amount paid.

When any stockholder fails to pay any installment or call upon his stock which may have been properly assessed thereon by the directors, at the time when such payment is due, the directors may collect the amount of such installment or call, or any balance thereof re-
maining unpaid, from the stockholder by an action at
law, or they may sell at public sale such part of the
shares of such delinquent stockholder as will pay all
assessments then due from him with interest and all in-
cidental expenses, and shall transfer the shares so sold
to the purchaser, who, upon payment of the same, shall
be entitled to a certificate therefor. Notice of the time
and place of such sale and of the sum due on each share
shall be given by publication thereof as a Class II legal
advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the pub-
lication area for such publication shall be the county
wherein the principal office or place of business of such
corporation is located. Such notice shall be so published
within fourteen consecutive days next preceding the sale.
Such notice shall also be mailed by the treasurer of the
corporation to such delinquent stockholder at his last
known postoffice address at least twenty days before such
sale. If no bidder can be had to pay the amount due on
the stock, and if the amount is not collected by an action
at law, brought within the county or city wherein the
principal office of such corporation is located, or in which
the delinquent stockholder resides, within six months
from the date of the bringing of such action at law, such
stock shall be forfeited to the corporation and the amount
previously paid in by the delinquent on the stock shall be
forfeited to the corporation. A sale of the shares of stock
may be made without resorting to the action at law
authorized in this section.

§31-1-37. Certificate for stock; lost or destroyed certificate.

1. Every holder of stock in a corporation shall be entitled
to have a certificate, signed by, or in the name of the
corporation by, the president or a vice president and
the treasurer or an assistant treasurer, or the secretary
or an assistant secretary of such corporation, certifying
the number of shares owned by him in such corpora-
tion: Provided, however, That, where such certificate is
signed by a transfer agent or an assistant transfer agent
or by a transfer clerk acting on behalf of such corpora-
tion and a registrar, the signature of any such president,
vice president, treasurer, assistant treasurer, secretary
or assistant secretary may be facsimile. In case any officer or officers who shall have signed, or whose facsimile signature or signatures shall have been used on, any such certificate or certificates shall cease to be such officer or officers of such corporation, whether because of death, resignation or otherwise, before such certificate or certificates shall have been delivered by such corporation, such certificate or certificates may nevertheless be adopted by such corporation and be issued and delivered as though the person or persons who signed such certificate or certificates or whose facsimile signature shall have been used thereon had not ceased to be such officer or officers of such corporation.

All certificates for stock which is given any preference, priority or preferred rights over any other shares as to dividends or otherwise, or which contains any limitation or restriction of voting or other rights, shall contain an accurate statement of all such preferences, priorities or preferred rights, restrictions and limitations. No certificate for any share of stock shall be issued or delivered to the stockholder until his subscription or sale price for such share is paid in full.

A certificate may be issued in lieu of a certificate lost or destroyed upon such terms and conditions as may be prescribed by the by-laws of the corporation, upon compliance with such terms and conditions by the person who appears by the books of the corporation to be the owner of the lost or destroyed certificate; and the owner may require the officers of the corporation to issue a certificate in the place and stead of one lost or destroyed upon the following conditions: (a) He shall file with the officers of the corporation, first, an affidavit setting forth the time, place and circumstances of the loss to the best of his knowledge and belief; second, proof of his having advertised the loss as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, for which advertisement the publication area shall be the county in which is located the principal office of the corporation; (b) he shall execute and deliver to the corporation a bond with good security in a penalty of at least the value
of the shares of stock represented by the lost or destroyed
certificate conditioned to indemnify the corporation and
all persons whose rights may be affected by the issuance
of the new certificate against any loss in consequence
of the new certificate being issued: Provided, however,
That a new certificate may be issued in lieu of the one
lost, in the discretion of the board of directors, without
requiring the publication of the above notice or the giving
of a bond.

Whenever a certificate for shares of the capital stock
of a corporation of this state which has heretofore been
or may hereafter be issued to a person as agent or trustee,
and as to which the stock ledger of such corporation does
not disclose the principal or cestui que trust, is lost or
destroyed, and no person, except the administrator of
the person to whom such certificate was issued as agent
or trustee, has made claim to it against the corporation
for more than twenty-five years, and such corporation
has been a going concern for more than ten years during
such period of twenty-five years, and has declared five
or more dividends upon its capital stock during the
last twenty-five years, and such dividends declared upon
the shares of stock alleged to be lost or destroyed have
not been paid to any person, and such agent or trustee,
the holder of such certificate, is dead, then, and in such
case, the administrator of the person to whom the
alleged lost or destroyed certificate was issued as agent
or trustee aforesaid, and who is still the owner of record
of such certificate, shall, after ten days' written notice to
such corporation demanding the issuance of a new
certificate of stock to him as such administrator, be
entitled to receive, in his name as administrator, such
new certificate in place of the one alleged to be lost or destroyed, and such administrator shall be en-
titled to receive all dividends that may have been de-
clared upon such certificate or number of shares
of stock alleged to be lost or destroyed and remaining
unpaid, under and upon the following conditions: (a)
If such administrator of such holder of record as agent
or trustee of such certificate of stock has given the afore-
said ten days' notice in writing to the corporation, he
shall cause to be advertised, as hereinafter provided, the fact that he gave to such corporation the required ten days' notice in writing; that more than twenty-five years prior thereto a certificate for the number of shares of the capital stock of such corporation was issued to his intestate as agent or trustee; that it is unknown to him who such principal or cestui que trust may be; that no person except the administrator of such agent or trustee has made claim to such certificate for more than twenty-five years; that such certificate has been lost or destroyed; that such stock represented by the certificate lost or destroyed and all dividends payable in respect thereto are claimed by such administrator for the purpose of distributing and accounting for the same to the person or persons entitled thereto; that at least two weeks after the last publication thereof such administrator, unless such corporation issues and delivers unto him such new certificate in the place of the one lost or destroyed and pays over and delivers to him as such administrator all dividends payable in respect thereto, will institute suit for the same; and such notice shall warn any and all persons, except such administrator, to produce to such corporation, on or before the expiration of two weeks after the last publication thereof as aforesaid, a statement in writing under oath of such claimant or his administrator, of the origin, circumstances and grounds upon which his claim as principal or cestui que trust to such stock and dividends is asserted, as well as the reasons for his delay in asserting title thereto: (b) if within such period of time for producing such certificate to such corporation such statement, satisfactory to such corporation, be not forthcoming, such corporation shall issue and deliver to such administrator a new certificate of stock in the place and stead of that alleged to be lost or destroyed and also deliver and pay over to him all dividends payable in respect thereto. The notice required to be published by this paragraph shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the
county wherein he was granted his letters of administration.

Such issuance and delivery of a new certificate and the payment of such dividends by the corporation to such administrator shall relieve such corporation from any and all liability whatsoever to any person claiming in any capacity such shares of stock represented by the certificates lost or destroyed or such dividends in respect thereto.

The procedure provided in this section is cumulative and not exclusive, and nothing herein contained shall be taken or construed as limiting in any way the right of any party who claims to be entitled to a new certificate of stock in the place of a lost or destroyed certificate, or the accumulated dividends thereon, which was issued in the manner hereinbefore provided, to have his or its rights to such new certificate and dividends determined and adjudicated without regard to this section by resort to any court of law or equity having jurisdiction to determine and adjudicate such rights, before the corporation shall have paid such dividends and issued a new certificate under the requirements of this section. The right to prosecute any suit pending at the time this article takes effect and growing out of the loss of a certificate of stock issued in the name of the trustee or agent shall not be impaired by anything herein contained.

§31-1-63. Consolidation or merger; proceedings for.

Any two or more corporations organized under the provisions of this chapter, or existing under the laws of this state, for the purpose of carrying on any kind of business, may consolidate or merge into a single corporation which may be any one of such constituent corporations or a new corporation to be formed by means of such consolidation or merger as shall be specified in the agreement hereinafter required. The directors, or a majority of them, of such corporations as desire to consolidate or merge, may enter into an agreement signed by them and under the corporate seals of the respective corporations, prescribing the terms and conditions of consolidation or merger, the mode of carrying
the same into effect, and stating such other facts re-
quired or permitted by the provisions of this article
to be set out in an agreement of incorporation, as can
be stated in the case of a consolidation or merger, stated
in such altered form as the circumstances of the case
require, as well as the manner of converting the shares
of each of the constituent corporations into shares of
the consolidated or merged corporation, with such other
details and provisions as are deemed necessary.

Such agreement shall be submitted to the stockholders
of each constituent corporation, at a meeting thereof,
called separately for the purpose of taking the same
into consideration; of the time, place and object of which
meeting due notice shall be given by publication as a
Class II legal advertisement in compliance with the pro-
visions of article three, chapter fifty-nine of this code,
and the publication area for such publication shall be the
county wherein each such corporation either has its
principal office or conducts its business. A copy of such
notice shall also be mailed to the last known postoffice
address of each stockholder of each such corporation,
at least twenty days prior to the date of such meeting:
Provided, however, That in the consolidation or merger
of banking institutions as defined in this chapter, in
the case of emergency, and upon the order of the com-
missioner of banking, the meeting may be held upon
at least twelve hours' notice sent by mail or telegraph
to the last known postoffice address of each stockholder,
and without publication.

At any such stockholders' meeting of any corporation
said agreement shall be considered and a vote by ballot,
in person or by proxy, taken for the adoption or rejec-
tion of the same, each share entitling the holder thereof
to one vote; and if the votes of stockholders of each such
corporation representing two thirds of the total num-
ber of shares of its capital stock then issued and out-
standing shall be for the adoption of such agreement,
then that fact shall be certified on such agreement by
the secretary of each such corporation under the seal
thereof; and the agreement so adopted and certified
shall be signed by the president and secretary of each
of such corporation under the corporate seals thereof and
acknowledged by the president of each of such corpo-
rations before any officer authorized by the laws of this
state to take acknowledgments of deeds to be the re-
spective act, deed and agreement of each of such corpo-
rations, and the agreement so certified and acknowledged
shall be filed in the office of the secretary of state, and
shall thence be taken and deemed to be the agreement
and act of consolidation or merger of the said corporations;
and a copy of such agreement and act of consolidation
or merger, duly certified by the secretary of state under
the seal of his office, shall also be recorded in the offices
of the clerks of the county courts of the counties of this
state in which the respective corporations so consolidat-
ing or merging shall have their original certificates of
incorporation recorded, if any, or if any of the corpo-
rations shall have been specially created by a public
act of the legislature, then such agreement shall be
recorded in the county where such corporation shall have
had its principal place of business, if any, and such rec-
ord, or a certified copy thereof, shall be evidence of the
agreement and act of consolidation or merger of such
corporations, and of the observance and performance
of all acts and conditions necessary to have been ob-
erved and performed precedent to such consolidation
or merger.

When an agreement shall have been signed, acknowl-
edged, filed and recorded as herein required, for all
purposes of the laws of this state, the separate exist-
ence of all the constituent corporations, parties to said
agreement, or of all such constituent corporations except
the one into which the other or others of such constit-
uent corporations have been merged, or consolidated,
as the case may be, shall cease and the constituent
corporations shall become a new corporation, or be
merged into one of such corporations, as the case may
be, in accordance with the provisions of said agreement,
possessing all the rights, privileges, powers, franchises
and trust and fiduciary duties, powers and obligations,
as well of a public as of a private nature, and being sub-
ject to all the restrictions, disabilities and duties of each
of such corporations so consolidated or merged, and all
and singular the rights, privileges, powers, franchises,
and trust and fiduciary rights, powers, duties and oblig-
gations, of each of said corporations; and all property,
real, personal and mixed, and all debts due to any of
said constituent corporations on whatever account, as
well for stock subscriptions as all other things in action
or belonging to each of such corporations shall be vested
in the corporation resulting from or surviving such
consolidation or merger; and all property, rights, privi-
leges, powers, and franchises, and all and every other
interest shall be thereafter as effectually the property
of the resulting or surviving corporation as they were
of the several and respective constituent corporations;
and the title to any real estate, whether vested by deed
or otherwise, under the laws of this state, vested in any
of such constituent corporations, shall not revert or be
in any way impaired by reason of this chapter: Provided,
however, That all rights of creditors and all liens upon
any property of any of said constituent corporations
shall be preserved unimpaired, and all debts, liabilities
and duties of the respective constituent corporations shall
thenceforth attach to said resulting or surviving cor-
poration, and may be enforced against it to the same
extent as if said debts, liabilities and duties had been
incurred or contracted by it.

§31-1-80. Procedure upon voluntary dissolution of domestic
corporation.

At any time during the fiscal year in which any cor-
poration may be created and before it engages in the
transaction of business and acquires any property other
than the amounts paid in on subscriptions to its stock,
the incorporators may abandon the corporation and by
indorsing and signing a statement of the intention so to
do on the certificate and returning the same to the secre-
tary of state, the secretary of state on receipt thereof
shall cancel and preserve such certificate of incorpora-
tion and the corporation created thereby shall be dis-
solved. If such charter shall have been recorded in the
office of the clerk of the county court of any county in
the state, the incorporators shall execute and acknowledge a writing setting forth the facts of the surrender and dissolution of the corporation and cause such writing to be recorded in the office of the clerk of the county court in which the certificate of incorporation is recorded, and the clerk shall note on the margin of the record book in which the certificate of incorporation is engrossed the fact of the dissolution of the corporation.

The stockholders at any time may resolve to discontinue the business of the corporation, at least sixty percent of the shares of capital stock entitled to vote being present at the meeting and voting in favor of such discontinuance, and may divide the property and assets among those entitled thereto after paying all the debts and liabilities of the corporation. A copy of the resolution shall be certified by the president, or a vice president under his hand and the seal of the corporation, to the secretary of state, who shall file the same in his office and shall issue a certificate under his hand and the great seal of the state reciting such resolution and certifying the dissolution of the corporation, but such certificate of dissolution shall not be issued unless and until the corporation has paid into the state treasury any amount it may owe as license tax, including interests and penalties. The officers of the corporation shall cause the certificate of dissolution to be recorded in the office of the clerk of each county court of the state in which the certificate of incorporation is recorded and the clerk of the court shall note on the margin of the record book in which the certificate of incorporation is engrossed the fact and the date of the dissolution of the corporation.

As soon as practicable after the passage of such resolution the directors and officers of the corporation shall cause the corporate assets to be applied to the payment of the corporate debts and liabilities, and no division of the assets among the stockholders shall be made until ample provision has been made for the payment of all the debts and liabilities and until notice of the resolution of dissolution shall have been published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publi-
cation area for such publication shall be the county in which the principal office or place of business of the corporation is located. The right of the state or of any county, district or city therein for any license taxes accrued unto the date of dissolution, or any other taxes or claims, or the remedies for the collection thereof, shall not be impaired by the dissolution of the corporation.

§31-1-84. Surrender by foreign corporation of authority to do business.

If any foreign corporation desires no longer to hold property and transact business in this state, it may surrender to the state its authority therefor, in the following manner: It shall publish a notice of its intention to withdraw from the state, such notice to be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be some county in the state where it carries on its business. After such publication it shall make application to the secretary of state for a certificate of withdrawal, which application shall be signed by the president of the corporation, sealed with its corporate seal, and attested by its secretary, and be accompanied by a copy of such notice and the publisher's certificate of such publication. The secretary of state shall file the same in his office and issue to such corporation a certificate of withdrawal; but such certificate of withdrawal shall not be issued unless and until the corporation has paid into the state treasury any amount it may owe as license tax, including all interest and penalties. The issuance of such certificate of withdrawal shall not relieve the corporation of any debt or obligation due from it to the state or any resident thereof.

ARTICLE 2. RAILROAD COMPANIES.

§31-2-15. Effect of such sale.

The corporation created by or in consequence of such sale and conveyance shall succeed to all such franchises, rights and privileges, but not immunity from taxation, and perform all such duties as would have been had, or
should have been performed by the first company, but
for such sale and conveyance; save only, that the cor-
poration so created shall not be entitled to debts due to
the first company, and shall not be liable for any debts
of, or claims against the first company, which may not
be expressly assumed in the contract of purchase; and
that the whole profits of the business done by such cor-
poration shall belong to such purchaser and his assigns.
His interest in the corporation shall be personal estate,
and he or his assigns may create so many shares of stock
therein as he or they may think proper, not exceeding
together the amount of stock in the first company at the
time of the sale, and assign the same in a book kept for
that purpose. Such shares shall thereupon be on the
footing of shares in corporations generally, except only
that the first meeting of the stockholders shall be held
on such day and at such place as shall be fixed by such
purchaser, of which notice shall be published as a Class
II legal advertisement in compliance with the provisions
of article three, chapter fifty-nine of this code, and the
publication area for such publication shall be each county
in the state wherein such corporation may do business.

ARTICLE 3. BOOM COMPANIES.
§31-3-2. Powers; boomage; lien; sale for tolls; free passage
of logs.

Every such corporation shall, after erecting its boom,
have the exclusive privilege of maintaining a suitable
boom or booms, with or without piers, dam or dams,
across the stream designated, within two miles above its
principal boom, for the purpose of stopping and securing
boats, rafts, saw logs and other timber of value, but such
boom or booms shall be so constructed as to permit boats,
rafts and other timber, when desired by the owner, to pass
them without unavoidable delay and without paying toll,
boomage or other charges, and may erect their booms
on the rivers and other streams, and may dredge and
clear the channels thereof, and remove obstructions
therefrom; and such corporation may build sawmills on
lands acquired in any other way than by condemnation;
and may manufacture and sell lumber and construct
tram-railways and dams, and do such other work as may be necessary for the purpose of getting logs and lumber to, down and from the river and its branches, on which such boom is located; and, in the event the lands necessary for such tram-railways can not be purchased from the owner or owners thereof at a reasonable price, then such corporation may have the same condemned for such purpose in the manner now provided by law for cases of a similar nature: Provided, That nothing in this section shall be so construed as to prevent any boom company from using water surface for two miles below its boom for assorting and bunching its own and other boats, rafts, saw logs and other timber of value, and that no company shall so construct its boom as to deprive another company of such right, nor shall any boom company which may construct a boom within two miles below a boom heretofore constructed have exclusive privileges of the water or stream above such other boom.

Boomage or toll shall be charged at a rate not less than twenty-five cents nor more than one dollar per thousand feet board measure; or not less than twenty nor more than eighty cents per one hundred cubic feet, except as hereinafter provided, which rate shall be determined by a commission in the manner following, to-wit: The circuit court of each county, the timber of which can be floated into the boom, or the judge of such court in vacation, shall appoint one person, and such corporation shall appoint a person and if such persons are unable to agree, they shall choose another person. None of the persons so selected shall be a stockholder or interested in such corporation. The persons so appointed and chosen shall be versed in the timber and lumber business, and be qualified to make such measurements and calculations as may be necessary. Persons so appointed or chosen shall constitute a commission, whose duty it shall be to fix the rates of boomage which the corporation may charge; and in determining this rate they shall take into consideration the ease or difficulty, as the case may be, of booming logs, etc., in such boom, and also any extraordinary expenditure of money which the corporation may have made to facilitate its business; and such com-
missioner shall fix a rate, which shall be in their judgment a fair and just compensation to the corporation for the capital invested and labor performed in booming logs, timber, etc., in the limits above described. And such commissioners may, in their discretion, or when requested to do so by parties interested, fix the separate rate which shall be charged for logs, ties, lumber, staves, or any other specific kind of lumber or timber which may be floated in such boom, by the hundred, thousand, or by bulk, as the case may be. The report of such commissioners shall be filed in the office of the clerk of the circuit court of each county in which a commissioner was appointed, and published within ten days after the report has been agreed upon as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county interested in such boom. Should the corporation or any interested party not be satisfied with the report of the commissioners, they may take exceptions thereto, which exceptions may be heard by the judge of the circuit court of any county interested, in term time or in vacation, and, if it appear to the court or judge that the rates established by the commissioners are unjust, either to the corporation or private persons, such report may be set aside and a new commission appointed. But unless exceptions are taken to the report of such commissioners within sixty days after the filing of the same, the report shall be taken as confirmed, and be binding upon all parties interested. Any boom company organized under the provisions of this chapter, or any party interested, may, if it so desire, ask for a commission once every five years, to revise the rate of boomage; such commission to be constituted as provided for in this section. When the stream boomed lies wholly in one county, there shall be two commissioners appointed by the circuit court of that county, who, together with the one appointed by the corporation, as hereinbefore provided, shall constitute such commission. If any controversy shall arise between such corporation and any person or persons having timber or other lumber in such boom, on account of such lumber,
or the rates of boomage, the commissioners authorized
to be appointed by this section may, if the parties inter-
ested and such corporation so desire it, act as arbitrators
to settle the same in such manner and with such result
as the law provides in other cases of arbitration. The
commissioners appointed under this section shall receive
three dollars per day for their services, to be paid by
such corporation, except that, after the rates have been
fixed, any subsequent commission shall be paid by the
party asking it.

Such corporation shall have a lien on all saw logs and
other timber and lumber thus boomed for the payment
of all tolls for booming, until the same shall be paid.
If any timber shall have been boomed securely, as
aforesaid, and no person shall appear to claim the same,
and pay the tolls thereon, within ninety days, it shall
be lawful for the corporation, after advertising the same
as hereinafter provided, reciting the marks, if any, to
make application to any justice of the peace of such
county, whose duty it shall be, upon proper proof of the
publication of such notice, to direct a sale of such tim-
ber, and designate some officer or other person to make
such sale, either by public auction or by private sale,
as to the justice shall seem most advantageous to the
parties interested; and at any time within a year from
such sale, the owner shall be entitled to receive the pro-
cceeds thereof, after deducting the toll and expenses; but
if not claimed within one year, the proceeds shall inure
to and be vested in the general school fund. Such ad-
vertisement shall be published as a Class II legal adver-
tisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication
area for such publication shall be each county in which
such boom or booms are located.

Where several companies are operating on the same
stream, the upper companies shall pass free of charge
through or around their booms, with as little delay as
possible, all logs, lumber, etc., distinctly marked as be-
longing to or in care of the boom or booms below them.
ARTICLE 4. BANKING INSTITUTIONS.

§31-4-8. Certificate as to capital to be filed annually before exercising trust powers; penalty; notice of failure to comply.

1 No banking institution shall exercise any of the trust powers mentioned in the preceding section until it shall have filed with the secretary of state a duly authenticated certificate, showing the unimpaired capital of such company to be at least one hundred thousand dollars and a like duly authenticated certificate shall be filed with the secretary of state and a copy thereof with the commissioner of banking in the month of January of each year thereafter. If any banking institution shall exercise, or attempt to exercise, any such powers or rights without having complied with the requirements of this section as to the filing of such certificate, it shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars; and in every such case, whether or not there shall have been a prosecution or conviction of the company so offending, the commissioner of banking, being satisfied of the facts, may publish a notice of the fact that it has failed to comply with the requirements of this section and is therefore not entitled to exercise the trust powers and rights mentioned in the preceding section. In the event a notice is published as aforesaid, it shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such institution is located.

§31-4-16. Liability of stockholders.

1 Each stockholder of any banking institution, organized under the laws of this state, in addition to the liability imposed upon him as a stockholder of a corporation under the provisions of article one of this chapter, shall be liable to the creditors of the banking institution, on obligations accruing while he is a shareholder, to an amount equal to the par value of the shares of stock held by him; and no sale or transfer of the shares of stock made by any such stockholder, after the liability of
the banking institution originated or accrued, shall relieve the stockholder from the liability imposed by this section. Any proceeding in equity to enforce the liability of stockholders imposed by this section may be prosecuted severally against any one stockholder or jointly against any number of stockholders: Provided, That the additional liability imposed upon such stockholders by this section shall not apply on and after the first day of July, one thousand nine hundred thirty-nine, with respect to any such institution, so long as such institution, in pursuance of the provisions of chapter seventeen, acts of the Legislature, one thousand nine hundred thirty-five, has its deposits insured by the federal deposit insurance corporation, or by any other similar federal instrumentality that may be hereafter created, provided there shall be such instrumentality in existence and available for the purpose: Provided further, That such additional liability shall not apply on and after the first day of July, one thousand nine hundred thirty-nine, with respect to any banking institution from and after the time it shall obtain from the commissioner of banking a certificate setting forth that such institution has, as ascertained by him, an unimpaired surplus equal to at least fifty per cent of the authorized capital of such institution. Upon application by any banking institution to the commissioner of banking for such certificate, the commissioner shall ascertain whether such institution has in fact such unimpaired surplus, and if such unimpaired surplus be found by him to exist, then he shall issue such certificate. If impairment of such surplus shall thereafter occur, such impairment shall not impose further or additional liability upon the stockholders of such institution: And provided further, That not less than three months prior to the first day of July, one thousand nine hundred thirty-nine, such institution shall have caused notices of such prospective termination of liability to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such institution is located. If the institution fails to give such notice,
as and when above provided, a termination of such additional liability may thereafter be accomplished as of the date three months subsequent to publication of the notice in the manner above provided.

Nothing in this section shall affect or impair the authority of the officers and directors of a banking institution to cause to be made good any impairment of the capital of such institution, under the provisions of section fourteen, article eight of this chapter.

ARTICLE 8. BUSINESS OPERATIONS AND SUPERVISION OF BANKING INSTITUTIONS, INDUSTRIAL LOAN COMPANIES AND BUILDING AND LOAN ASSOCIATIONS.

§31-8-10. Periodical reports of industrial loan companies and building and loan associations; publication.

Every industrial loan company and building and loan association and every other corporation by law placed under the supervision of the department of banking and not covered in the next following section, engaged in business in this state shall, at least twice a year, at the request of the commissioner of banking and as of a date named by him, furnish, within fifteen days after such request, a statement, verified by its president or secretary, and approved by three of its directors, in such form as may be prescribed by the commissioner of banking, showing in detail the actual financial condition and the amount of the assets and liabilities of such corporation, and shall furnish such other information as to its business and affairs as the commissioner of banking may require, which reports, in the same form in which they are transmitted to the commissioner of banking, shall be printed and circulated among all of the stockholders of the corporation or published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the corporation is located.

§31-8-11. Periodical reports of banking institutions; publication.

Every banking institution organized and authorized to transact business under this chapter shall make at least
four reports each year to the commissioner of banking. Such reports shall be called for as nearly as conveniently may be on the dates on which the comptroller of the currency shall call for reports by national banking associations, and be of such form and contain such details as shall be prescribed by the commissioner of banking; which reports shall be verified by oath of the president or active vice president and cashier, and attested by the signature of at least three directors of the banking institution. Each report shall show in detail, under appropriate heads, the resources and liabilities of the banking institution at the close of the business on the date specified by the banking commissioner, and shall be transmitted to the office of the department of banking and supervision within five days from the receipt of the request for the same.

Such report, in the same form in which it is made to the commissioner of banking, shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the banking institution is located.

In lieu of such report and publication, the commissioner of banking shall have discretion to accept from a banking institution which is a member of the federal reserve system a report, and the publication thereof required of such banking institution by the federal reserve board or by its agency: Provided, That such report shall show in detail, under appropriate heads, the resources and liabilities of the banking institution at the close of business on the day specified by the federal reserve board, or by its agency, and shall contain such further details as may be deemed necessary or desirable by the commissioner of banking.

Any report and the publication thereof shall be at the expense of the banking institution, and it shall furnish to the commissioner of banking such proof of the publication as may be required by him.
§31-8-14. Impairment of capital of banking institution forbidden; how remedied.

The officers and directors of a banking institution organized and authorized to transact business under this chapter shall not pay out, disburse or withdraw, or permit to be paid out, disburse or withdrawn, in any manner whatever, any part of the capital of the corporation except in case of merger or consolidation, as hereinafter provided. Whenever, from any cause, the capital of such banking institution shall become impaired, it shall be the duty of the officers and directors of such institution, forthwith, to cause any such impairment to be made good, by assessing the amount of the deficiency pro rata on the shares of the capital stock outstanding, which assessments shall be paid within thirty days after notice thereof. If any stockholder shall neglect or refuse to pay the assessment on his shares after thirty days' notice, it shall be the duty of the board of directors to cause a sufficient number of his shares of stock to be sold for cash, at public outcry at the banking room of the banking institution, to pay the amount of such assessment and expenses of making the sale. Notice of such sale shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the banking institution is located. The first publication shall be made at least ten days before the date of such sale. Any surplus from the sale of any share shall be paid to the defaulting stockholder and should such stock not sell for a sum sufficient to pay such assessment and expense of making such sale, the banking institution may recover the deficiency by action at law from the stockholder whose stock was so sold. A sale of stock as provided in this section, shall effect an absolute cancellation of the outstanding certificate, or certificates, evidencing the stock so sold, and shall make such certificate null and void, and a new certificate shall be issued by the bank to the purchaser of such stock.
§31-8-25a. Permissive closing of banking institution on fixed weekday; procedure.

Any banking institution or trust company in this state, or combined banking institution and trust company, including national banking associations, may remain closed on any one fixed weekday or portion of such day in each calendar week, other than Sunday, which may be designated by the adoption of a resolution by the board of directors thereof. Not less than fifteen nor more than thirty days in advance of closing of any such weekday or portion thereof, such banking institution shall post a notice in a conspicuous place in its banking room stating that on or after a day certain and until further notice given in like manner, such banking institution will remain closed on a fixed weekday or portion thereof. Concurrently with the posting of such notice, such banking institution shall cause a notice to be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the principal office of such bank is located. Such notice shall set forth the weekday or portion thereof on which said bank will remain closed and the date when such closing becomes effective. A certified copy of such resolution certified by the cashier or secretary of such banking institution, together with an affidavit of posting and proof of publication of the notice herein required shall be filed with the commissioner of banking.

Any fixed weekday or portion thereof on which any banking institution shall elect to close pursuant to the authority of this section shall constitute a legal holiday or partial legal holiday with respect to such banking institution and not a business day for the purposes of the law relating to negotiable instruments, and any act or contract authorized, required or permitted to be carried out or performed at, by or with respect to such banking institution may be performed on the next business day, and no liability or loss of rights on the part of any person or banking institution shall result therefrom.
§31-8-32. Banking institutions and other corporations with impaired capital or insolvent; liquidation.

1 If the commissioner of banking shall ascertain from any source that the capital of any banking institution or other corporation by law placed under the supervision of the department of banking is substantially impaired, and that such institution or other corporation, upon notice from him, does not promptly make good such impairment, or that any banking institution or such other corporation in this state is insolvent, he shall have authority to appoint an employee of the department of banking receiver of such banking institution or other corporation to take charge of the papers, books, records, moneys and assets of every description of such institution or other corporation; and immediately upon taking charge of any such institution or other corporation, the commissioner of banking shall make in duplicate a complete inventory of all assets and an itemized list of all liabilities of such institution or other corporation. The original and copy of such list shall be subscribed and sworn to by the persons making the same and the original shall be filed with the department of banking and one copy shall be furnished such receiver, and such receiver, upon assuming office, shall open and keep such books and records as are prescribed by the commissioner of banking.

Such receiver shall have all the powers vested in special receivers by general law. The receiver, under the authority of the commissioner of banking, shall institute and prosecute any suit or suits necessary to obtain possession of any property and to sell and dispose of the same and to collect all obligations due such institution or other corporation. The receiver in such suit, or by separate suits, under the authority of the commissioner of banking, shall enforce against the officers, directors and stockholders any liability incurred by them and existing in favor of the creditors of such institution or other corporation, and collect from such officers, directors and stockholders any sums for which they are liable as aforesaid.
If it shall appear that the assets of such insolvent institution or other corporation are not sufficient to pay in full all of its creditors and depositors, without waiting to administer the assets of such institution or corporation, or delaying for any other cause, in the same suit or in separate suits, to be forthwith instituted in the same or any other jurisdiction in his name, the receiver, under the authority of the commissioner of banking, shall collect from each of the several stockholders of such institution or other corporation all sums for which they are severally liable to such institution or other corporation, for the benefit of its creditors.

If it shall be necessary to institute any suit against any stockholder in the courts of any other state, the same may be either instituted and prosecuted in the name of the commissioner of banking, or, at his election, in the name of the receiver or the corporate name of the institution or other corporation which is in process of liquidation, and any such receiver may bring a suit in the circuit of the county where such institution or other corporation is located, to ascertain the several depositors and creditors of such institution or other corporation and the amounts and priorities of their respective claims. Such banking institution or other corporation and the stockholders of such banking institution or other corporation, residing in this state, shall be made defendants to such suit, and all persons who shall file proofs of claim shall be deemed parties thereto as though they had been named as defendants. The court shall refer the cause to a commissioner in chancery, and such commissioner shall thereupon cause to be published a notice to all depositors and creditors of such banking institution or other corporation, requesting them to present their claims to such commissioner for allowance. Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county wherein the suit is pending. After publication of such notice is completed, such commissioner in chancery shall proceed as promptly as possible to ascertain and report the several
depositors and creditors of such banking institution or
other corporation and the amounts and priorities of their
respective claims, if any, proven before him. All claims
as shall have been duly proved and allowed by the re-
ceiver or the commissioner of banking, before the de-
cree of reference, may be allowed and reported by the
commissioner in chancery without further proof, unless
the same shall be contested and disallowed for proper
cause. The commissioner in chancery shall also ascer-
tain and report what funds and assets of such banking
institution or other corporation have come into the hands
of the receiver, what disposition has been made of such
assets, and what dividends, if any, have been paid, and
settle the accounts of such receiver. When the report
of such commissioner is confirmed, the court shall enter
such orders and decrees and take such proceedings as
are proper to ascertain the several depositors and cred-
itors of such banking institution or other corporation,
and adjudicate their respective rights and direct the dis-
tribution of the assets and funds in the hands of the re-
ceiver and confirm any distribution made under orders
of the commissioner of banking, and may confirm any
and all sales made by such receiver, of property and
assets of such banking institution or other corporation.
Any creditor whose claim is not presented and allowed
before any decree of distribution becomes final shall be
forever barred from participating in the funds distrib-
uted under such decree, or theretofore distributed and
confirmed by such decree, and shall have no claim by
reason of such distribution against any creditor sharing
therein or against the commissioner of banking, the re-
ceiver, or any surety upon the receiver's bond. Any
claim which shall have been proved and allowed after
any dividend or distribution has been made by the re-
ceiver, shall be paid dividends equal or proportionate in
amount to those already received by the other creditors
of the same rank and priority, if the funds and assets
in the hands of the receiver are sufficient therefor, be-
fore such other creditors receive any further dividend
or distribution.
In any such suit brought by the receiver for the purpose of ascertaining the several depositors and creditors of such institution or other corporation, as hereinbefore provided, the receiver may also proceed against the officers, directors and stockholders of the banking institution or other corporation to enforce their individual liabilities as hereinabove provided, or for the adjudication of any other pertinent matter involved in the administration of the assets and affairs of such institution or other corporation.

All of the assets of any such insolvent institution or other corporation shall be administered under, applied and paid out through the orders of the commissioner of banking, as herein provided. The costs and expenses of the receivership and of any suit or suits brought by the receiver under the direction of the commissioner of banking shall be entitled to priority of payment out of the assets of such institution or other corporation.

The receiver shall, by proper proceedings, ascertain the several creditors and the amounts and priorities of their respective claims against such institution or other corporation, and shall, from time to time, as the assets of such institution or other corporation are reduced to possession, and converted into cash, pay the same to the several creditors in the order and the manner in which they are respectively entitled to payment: Provided, however, That without regard to priority, the receiver may at any time pay in full the claim of any creditor which is less than five dollars.

If the assets of any such institution or other corporation, including any sums collected from the stockholders, shall more than suffice to pay all of the creditors of such institution or other corporation who have presented and proved, or caused to be allowed, their several demands, the surplus shall be disbursed as follows: First, in the case of a banking institution, to the stockholders, who have paid in any sums upon their extraordinary liability as stockholders, pro rata up to the respective amounts paid by each of them. Second, if anything shall remain thereafter it shall be paid to the stock-
holders of the institution or other corporation, in pro-
portion to the number of shares owned by them respec-
tively.

The salary of such receiver for the time devoted to 
such receivership and all expenses incurred by such re-
ceiver in the discharge of his duties, including reason-
able fees paid for legal services, shall be paid out of the 
assets of such institution or other corporation as a part 
of the costs of the receivership. No other compensation 
shall be paid to such officer for acting as receiver for 
such institution or other corporation.

The receiver of any such insolvent institution or other 
corporation, before entering upon the discharge of his 
duties, or receiving into his possession any of the assets 
of such insolvent institution or corporation, shall enter 
into bond in favor of the state of West Virginia, in a 
penalty fixed by and with corporate surety approved by 
the governor, conditioned for the faithful discharge of 
his duties as receiver, and for accounting for and pay-
ing for and paying over, as required by law, all prop-
ties, moneys and funds which shall come into the hands 
of such receiver, his agents, attorneys or representa-
tives. The bond and certificate of appointment of such 
receiver shall be recorded in the office of the clerk of 
the county court of the county in which such banking 
institution or other corporation is situated, and a cer-
tified copy thereof shall be forthwith transmitted by the 
receiver to the commissioner of banking.

Upon the appointment of a receiver for a banking in-
stitution engaged in business in this state and author-
ized to exercise trust powers, such trust powers and au-
thority shall end, and for every case where such banking 
institution has acted as fiduciary, such receiver shall im-
mediately make a final settlement before the court in 
which such banking institution qualified as such fiduci-
ary, which settlement shall cover all matters not included 
in a prior settlement, if any. Thereupon such court shall 
proceed as is provided in section six, article five, chapter 
fourty-four of this code, and no formal revoking or an-
nulling order shall be necessary.
Nothing in this section shall impair the right of any court of chancery in any suit, on a proper showing, to appoint a receiver for any such institution or other corporation, in cases where the commissioner of banking has failed, refused or neglected to act.

§31-8-43. Appointment and duties of conservators for banking institutions; withdrawals and deposits during conservatorship; termination of conservatorship; reorganization.

Whenever the commissioner of banking shall deem it necessary, in order to conserve the assets of any banking institution for the benefit of the depositors and other creditors thereof, he may appoint a conservator for such banking institution. The conservator may be an employee of the department of banking, and may be required to give such bond and security as the commissioner deems proper.

The conservator, under the direction of the commissioner of banking, shall take possession of the papers, books, records and assets of every description of such banking institution and take such action as may be necessary to conserve such assets pending further disposition of the business of such institution.

The conservator shall have all the rights, powers and privileges now possessed by or hereafter given receivers of insolvent banking institutions and shall be subject to all the liabilities, obligations and penalties, not inconsistent with the provisions of this article, to which receivers are now or may hereafter become subject.

During the period that such conservator remains in possession of such banking institution, the legal relations of all parties with respect thereto shall, subject to the other provisions of this section, be the same as if a receiver had been appointed therefor.

All expenses of any such conservatorship shall be paid out of the assets of such banking institution and shall be a lien thereon, which shall be prior to any other lien.

The conservator shall receive a reasonable compensation for his services to be fixed by the commissioner of banking for his services to be fixed by the commissioner
of banking, but in no event shall such compensation exceed that paid to employees of the department of banking for similar services.

(a) Immediately upon taking charge of such banking institution, the conservator, in conjunction with a representative of the bank designated by the directors thereof, shall make in duplicate a complete inventory of all assets and an itemized list of all liabilities of such institution. The original and copy of such list shall be subscribed and sworn to by the persons making the same and the original shall be filed with the department of banking as soon as practicable, and the copy shall be retained by the conservator.

(b) If the commissioner of banking becomes satisfied that such a course of action may be pursued safely and that it will be in the public interest, he may, in his discretion, terminate the conservatorship and permit such banking institution to resume the transaction of its business subject to such terms, conditions, restrictions, and limitations as he may prescribe.

(c) While such banking institution is in the hands of the conservator, the commissioner of banking may require such conservator to set aside and make available for withdrawal by depositors and payment to other creditors, on a ratable basis, such amounts as in the opinion of the commissioner may be used safely for this purpose, subject to such priorities and preferences as are provided by law. The commissioner may, in his discretion, permit the conservator to receive deposits. Such deposits shall not be subject to any limitation as to payment or withdrawal. The deposits shall be segregated and shall not be used either to liquidate any indebtedness of such banking institution existing at the time that a conservator was appointed for it or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of such banking institution existing at the time such conservator was appointed.

Deposits received while the banking institution is in the hands of a conservator shall: (1) Be kept on hand in cash or, (2) be deposited with a federal reserve bank
or deposited with such banking institution organized under the United States National Bank Act, or the law of this state as the commissioner of banking may, in his discretion, designate or, (3) be invested in the direct obligations of the United States or the state of West Virginia or the funded obligations of any political subdivision of this state approved by the commissioner of banking.

(d) In any reorganization of any banking institution under a plan of a kind which, by its own terms or under existing law, requires the consent, as the case may be, (a) of depositors and other creditors; or (b) of stockholders; or (c) of both depositors and other creditors, and stockholders, such reorganization shall become effective only (1) when the commissioner of banking shall be satisfied that the plan of reorganization is fair and equitable to all depositors, other creditors and stockholders, and that the plan is in the public interest and when he shall have approved the plan subject to such conditions, restrictions and limitations as he may prescribe; and

(2) when, after reasonable notice of such reorganization, as the case may require, (a) depositors and other creditors of such banking institution representing at least seventy-five per cent in amount of its total deposits and other liabilities; or (b) stockholders owning at least two thirds in amount of its outstanding capital stock; or (c) both depositors and other creditors representing at least seventy-five per cent in amount of the total deposits and other liabilities and stockholders owning at least two thirds in amount of its outstanding capital stock, shall, as the plan may require, have consented in writing to the plan of reorganization. Claims of depositors or other creditors which will be satisfied in full under the plan of reorganization shall not be included among the total deposits and other liabilities of said banking institution in determining the seventy-five per cent thereof as above provided.

When such reorganization becomes effective, all books, records, and assets of the bank shall be disposed of in accordance with the provisions of the plan and the affairs
of the bank shall be conducted by its board of directors
in the manner provided by the plan and under the condi-
tions, restrictions and limitations which may have been
prescribed by the banking commissioner. In any re-
organization which shall have been approved and shall
have become effective as provided herein, all deposi-
tors and other creditors and stockholders of such bank,
whether or not they shall have consented to such plan
of reorganization, shall be fully and in all respects sub-
ject to and bound by its provisions, and claims of all
depositors and other creditors shall be treated as if they
had consented to such plan of reorganization.
(e) Fifteen days after the affairs of a banking institu-
tion shall have been turned back to its board of direc-
tors by the conservator, either with or without a reorgan-
ization as provided in subsection (d) hereof, the provi-
sions of subsection (c) hereof shall no longer be effec-
tive. Before the conservator shall turn back the affairs
of the institution to its board of directors he shall pub-
lish a notice in form approved by the commissioner,
stating the date on which the affairs of the banking in-
stitution will be returned to its board of directors and
that the said provisions of subsection (c) will not be
effective fifteen days after such date. Such notice shall
be published as a Class I legal advertisement in com-
pliance with the provisions of article three, chapter
fifty-nine of this code, and the publication area for such
publication shall be the county in which such bank is
located. On the date of the publication of such notice
the conservator shall send a copy of such notice by regis-
tered mail to the last-known address of every person
who is a depositor as shown by the records of the insti-
tution. The conservator shall send a similar notice in
like manner to every person making deposit in such in-
stitution under subsection (c) after the date of such
newspaper publication and before the time when the
affairs of the bank are returned to its directors.
(f) Nothing in this section shall be construed to im-
pair in any manner any powers of the governor or the
commissioner of banking.
(g) The commissioner of banking is hereby authorized to prescribe such rules and regulations as he may deem necessary in order to carry out the provisions of this section.

§31-8-44. Appraisal of assets of banking institutions in conservatorship or receivership.

Within sixty days after an inventory shall have been made of the assets of a banking institution in receivership its assets shall be appraised in the manner herein provided and a copy filed with the commissioner of banking. The banking commissioner shall not approve or consent to the reorganization, consolidation, merger or sale of the business of a banking institution in conservatorship or receivership until an appraisal shall have been made and published as provided in this section. Appraisal shall be made on the basis of present true and actual value by three appraisers: The conservator or receiver, a representative of the banking institution designated by its board of directors and a representative of the depositors, who was a depositor at the time the conservator or receiver was appointed and shall not have disposed of his claim, to be designated by the commissioner of banking upon the nomination in writing of a majority in amount of depositors or assigns if filed with the commissioner not later than two weeks after inventory in receivership or conservatorship. If no such nomination is made the commissioner shall designate the depositors' representative in his discretion. In the event of disagreement as to a valuation the determination of any two of the appraisers shall be final. A completed appraisal shall be published, in form approved by the commissioner of banking, as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the banking institution is located. A copy of the appraisal shall also be filed with the banking commissioner. The expense of appraisal and publication shall be deemed part of the cost of the conservatorship or receivership and shall include reasonable compensation allowed the
appraisers, other than a conservator or receiver, by the commissioners of banking.

CHAPTER 34. ESTRAYS, DRIFT AND DERELICT PROPERTY.

ARTICLE 1. ESTRAYS AND DRIFT PROPERTY.

§34-1-1. Taking up estray or boat.

Any person may take up an estray found on his land, or a boat or vessel adrift. He shall immediately post notices at three public places in the district wherein the property is so found, giving a description of the property and stating when the same was so taken up; and if the owner of such property shall not appear and claim the same within two weeks from the posting of such notice, then the person so taking such property up shall cause a like notice to be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the property was taken up. In either case the owner may have possession of such property upon paying the costs of such posting and publishing of such notice and of keeping the property; and if the owner shall not appear and claim such property within three weeks from the date of the first publication of such notice in a newspaper, the person taking the same up shall immediately inform a justice of the district thereof, who shall issue his warrant to three freeholders, requiring them under oath to view and appraise such estray, or boat or vessel, and certify the result, with a description of the kind, marks, brand, stature, color and age of the animal, or kind, burden and build of the boat or vessel.

ARTICLE 2. DERELICT PROPERTY.


When any such suit as is mentioned in the preceding section is instituted, the court shall cause a publication to be made setting forth the nature of the claim, the name and nativity (when known) of the deceased person, or of the former owner of the property, if known,
as the case may be, and describing the property or estate claimed, and requiring all persons claiming an interest therein to appear and make themselves defendants, by a given day of an ensuing term. Such publication shall be made as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the seat of state government may be.

CHAPTER 35. PROPERTY OF RELIGIOUS, EDUCATIONAL AND CHARITABLE ORGANIZATIONS.

ARTICLE 1. RELIGIOUS ORGANIZATIONS.

§35-1-10. Notice of conveyance or lien to be first given; proof thereof.

Before any such conveyance of real estate or instrument creating a lien thereon shall be made, the proper authorities of such church, religious sect, society, or denomination, or of any individual church, parish, congregation or branch, shall cause to be published a notice describing the real estate and stating that the same will be sold and conveyed, or subjected to a lien, as the case may be, on or following a designated date. Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the land is situated. In lieu of such publication, the notice may be read at the principal services of such church, parish, congregation or branch, on at least two separate occasions during a period of two weeks. No conveyance or instrument creating a lien shall be made or become effective until such notice shall be published or read, as aforesaid. An affidavit setting forth the facts regarding such publication or reading, shall accompany, and be recorded with, any deed of conveyance or instrument creating a lien, and shall be sufficient proof of the facts therein set forth.
ARTICLE 5. CEMETERIES.

§35-5-2. Sale of part of cemetery; prohibitions.

1. The trustees of any burial grounds, or any incorporated cemetery association whenever it is deemed advisable by such trustees or association, and is not prohibited by the terms of the conveyance, dedication or devise of such grounds, may sell and convey any part of such burial grounds or land of such association, without restriction as to its use, if such sale and conveyance will not render any lot previously sold for burial purposes inaccessible for such purposes, or detach it from the main body of the cemetery. But no such sale shall be made by such trustees or such association unless authorized by a majority of the lot owners present and voting at a general meeting or special meeting, of which meeting and its object previous notice shall be given by advertising the same as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the cemetery is situated.

No desecration shall be made of any grave or monument, or any of the walks, drives, trees, or shrubbery within the inclosure of any burial grounds; nor shall any shaft or entry be made within the inclosure of such burial grounds, or any building be erected therein for any purpose whatever other than cemetery purposes.

CHAPTER 36. ESTATES IN PROPERTY.

ARTICLE 2. DISPOSITION OF ESTATES SUBJECT TO FUTURE INTERESTS.

§36-2-12a. Summary proceedings for sale or lease; petition.

1. In addition to the proceedings authorized by the first section of this article, any person having any interest mentioned in section two of this article in the personal property, land, timber, oil, gas, coal or other minerals sought to be sold, leased or otherwise conveyed, may apply by petition, in a summary way, to the circuit court, or to the judge thereof in vacation, or to any court of concurrent jurisdiction with the circuit court, or to the judge thereof in vacation, of the county in which the
estate proposed to be sold, leased or otherwise conveyed, or some part thereof, may be. Such petitions shall describe the property sought to be sold, leased or otherwise conveyed with reasonable certainty and shall set forth the names of all persons interested in such property, together with their respective interests or estates, either vested, contingent or executory, so far as is known by the plaintiff. Such petition shall also set forth the facts which, in the opinion of the plaintiff, would justify the sale, lease or other conveyance of such property. The petition shall be verified by the oath of the plaintiff or one of the plaintiffs, and all persons interested shall be made defendants, and ten days' notice shall be given to such defendants before such petition can be heard: Provided, however, That in the case of nonresident defendants and/or unknown or unascertainable parties an order of publication may be entered, on proper affidavit as in any other chancery proceeding, requiring publication of such notice, with respect to any nonresident defendants and/or any unknown or unascertainable parties who may have or claim any interest or estate in such property, as a Class III-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the property or the greater part of the property concerned is situate. Such published notice, with the certificate of publication, when filed with the record in said proceedings, shall be and constitute valid and sufficient notice herein. All other provisions of this article not inconsistent herewith shall apply to and implement the procedures provided in this section.

ARTICLE 8. UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT.

§36-8-12. Notice and publication of lists of abandoned property.

(a) Within one hundred twenty days from the filing of the report required by section eleven, the state treasurer shall cause notice to be published as a Class I legal advertisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the publication area for the notice shall be the county in which the holder of the abandoned property has his principal place of business within this state.

(b) The published notice shall be entitled “Notice of Names of Persons Appearing to Be Owners of Abandoned Property,” and shall contain:

(1) The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the state treasurer.

(3) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within sixty-five days from the date of the second published notice, the abandoned property shall be placed in the custody of the state treasurer, to whom all further claims must thereafter be directed.

(c) The state treasurer is not required to publish in such notice any item of less than fifty dollars unless he deems such publication to be in the public interest.

(d) Within ten days after the first publication of the notice required by subsection (a) of this section, the state treasurer shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of fifty dollars or more presumed abandoned under this article.

(e) The mailed notice shall contain:

(1) A statement that, according to a report filed with the state treasurer, property is being held to which the addressee appears entitled.
(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the state treasurer, to whom all further claims must be directed.

(f) Within five days after the date specified in the published notice, the state treasurer shall mail to each holder a notice specifying the date on which the holder's payment or delivery of abandoned property is due to the state treasurer.

§36-8-17. Sale of abandoned property.

(a) All abandoned property other than money delivered to the state treasurer under this article shall within one year after the delivery be sold by him to the highest bidder at public sale in whatever city in the state affords in his judgment the most favorable market for the property involved. The state treasurer may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) Any sale held under this section shall be preceded by a publication of notice thereof as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the property is to be sold. The publication shall be at least three weeks in advance of sale.

(c) The purchaser at any sale conducted by the state treasurer pursuant to this article shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The state treasurer shall execute all documents necessary to complete the transfer of title.
CHAPTER 37. REAL PROPERTY.

ARTICLE 6. LANDLORD AND TENANT.

§37-6-24. Record of re-entry; publication of certificate.

Where actual re-entry shall be made, the party, by or for whom the same shall be made, shall return a written act of re-entry, sworn to by the sheriff or other officer acting therein, to the clerk of the county court of the county wherein the lands or tenements shall be, who shall record the same in the deed book, and shall deliver, to the party making the re-entry, a certificate setting forth the substance of such written act, and that the same had been left in his office to be recorded, which certificate shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such county. Such publication shall be proved by affidavit to the satisfaction of such clerk, who shall note the fact on the margin of the deed book against the record of the act of re-entry in the words, "Publication made and proved according to law, A.________. B.________________________, Clerk," and shall return the original act of re-entry to the party entitled thereto. Such written act of re-entry, when recorded, and the record thereof, or a duly certified copy from such record, shall be evidence in all cases of the facts therein set forth.

ARTICLE 13. REMOVAL, TRANSFER AND DISPOSITION OF REMAINS IN GRAVES LOCATED UPON PRIVATELY-OWNED LANDS.


All owners, lessees and other persons having an interest in such lands, other than plaintiffs, and also the surviving next-of-kin, heirs-at-law, administrator, executor, or personal representative of each deceased, so far as can be determined through reasonable and diligent effort, shall be made defendants in such action. Insofar as possible all defendants shall be served with notice of the institution of the action and the date of the first hearing upon the same, such service to be made in the same manner provided by law for the service of process in other
civil actions. If the address of any defendant be unknown, or, if there be any unknown next-of-kin, heirs-at-law, administrator, executor or personal representative of any known or unknown person whose remains may be interred within any such grave, then, in such event, a copy of said notice shall be published prior to the hearing upon the same as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

CHAPTER 38. LIENS.
ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.

§38-1-4. Notice of sale.

When any property is about to be sold under a trust deed, the trustee shall, unless it be otherwise provided in such trust deed, or in the opinion of the trustee the property to be sold be of less value than three hundred dollars, publish a notice of such sale as a Class III-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the property is located. Such notice shall be so published within twenty-one consecutive days next preceding the day of sale. If, in the opinion of the trustee, the property be of less value than three hundred dollars, such notice of sale shall be posted at least twenty days prior thereto at the front door of the courthouse of the county in which the property to be sold is, and three other public places at least in the county, one of which shall be as near the premises to be sold (in case the sale be of real estate) as practicable; and in all cases whether the notice be published or not, a copy of such notice shall be served on the grantor in such trust deed, or his agent or personal representative, if he or they be within the county, at least twenty days prior to the sale. Every notice of sale by a trustee under a trust deed shall show the following particulars: (2) The time and place of sale; (b) the names of the parties to the deed under which it will be made; (c) the date of the deed; (d) the office
§38-1-10. **Who may require trustee to give bond; new trustee on failure to give notice.**

The grantor or his assignee, or any cestui que trust, may at any time after the execution of the trust deed, by notice in writing, require any trustee to give the bond mentioned in the following section of this article, and, upon his failure to do so for twenty days after such notice, the power of such trustee shall cease and another trustee may be appointed by the circuit court of any county wherein such deed of trust is recorded, or by the judge thereof in vacation, to execute such trust, upon the application of any cestui que trust, or the grantor or any assignee of the grantor, if, upon the hearing of such application, the failure of the trustee to give such bond be made to appear to the satisfaction of such court or judge, by affidavits or otherwise. At least ten days' notice in writing of such application shall be given to the trustee, grantor, or assignee of the grantor, and to all cestuis que trust in such deed if they be residents of the county, stating the court or judge before whom such application is to be made. If such trustee and grantor or assignee of the grantor, or either of them, are not residents of such county, the notice as to them, or the one not a resident, may be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such county.

**ARTICLE 2. MECHANICS' LIENS.**

§38-2-15. **Publication and posting of notice to nonresident owner or owner not found.**

In the event that any owner, upon whose real estate or improvement thereof it is desired to take a lien under this article, should be a nonresident of this state, or in the event that any officer of this state authorized by law to execute legal process should make return "not found" upon any notice of a mechanic's lien which may be presented to him for service, then it shall be sufficient service
of any such notice of mechanic's lien upon such non-
resident owner, or upon such owner as to whom any such
return, of "not found" shall be made by any such officer,
to publish a copy of such notice as a Class II legal ad-
vertisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication
area for such publication shall be the county wherein the
real estate lies. A copy of such notice shall also be posted
in a conspicuous place upon the property sought to be
charged thereby, which publishing and posting shall be
sufficient, if commenced within the period provided by
this article for the filing of such notice. The costs of such
publication may be added to the account for which the
lien is claimed, and, if included in the amount mentioned
in the recorded notice, the lien shall cover such costs.

ARTICLE 3. JUDGMENT LIENS.

§38-3-11. Notice to lienholders.

1 No decree for the distribution of the proceeds of real
2 estate in a suit in equity to enforce a judgment shall be
3 made until a notice to all persons holding liens on the
4 real estate of the judgment debtor be published, under
5 a decree of the court, as hereinafter provided. Such no-
6 tice shall be sufficient if it be in form or effect as follows:
7 To all persons holding liens by judgment or otherwise,
8 on the real estate, or any part thereof, of A_____________________.
9 B______________________________;
10
11 In pursuance of a decree of the circuit court of__________
12 ________________ county, made in a cause therein pending, to
13 subject the real estate of the said A_____________________.
14 B______________________________ to the satisfaction of the liens thereon,
15 you are hereby required to present all claims held by
16 you and each of you against the said A_____________________.
17 B______________________________, which are liens on his real estate,
18 or any part of it, for adjudication to me, at my office in
19 the county (or city, town or village, as the case may be)
20 of _________________________ on or before the _____ day of
21 _________________________
22 _________________________
23 C ______________________ D ______________________, Commissioner.
24 Such notice shall be published as a Class II legal ad-
25vertisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Publishing of such notice shall be equivalent to the personal service thereof on all persons holding liens, on any such real estate, unless the court shall, in the decree directing such notice to be so published, otherwise order.

ARTICLE 4. EXECUTIONS.
§38-4-20. Time and place for sale of personal property under distraint, levy or order of court; posting or publishing notice; conduct and terms of sale.

In any case where an officer shall distrain or levy upon personal property, otherwise than under an execution or order issued by a justice, or under an attachment, and in any case in which he may be directed to sell personal property by an order of a court or judge, unless such order prescribes a different course, he shall fix upon a time and place for the sale thereof, and publish notice of such sale at least ten days by posting the same at the door of the courthouse of his county and some other conspicuous place near the residence of the owner, if he resides in the county: Provided, That any sheriff or other officer proceeding to sell under a writ of fieri facias or venditioni exponas, if the property be of the value of five hundred dollars or more, shall advertise the sale as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

If the property be perishable or expensive to keep, it may be sold by order of the court, or the judge thereof in vacation, upon such notice as the court or judge may direct.

At the time and place so appointed the officer shall sell to the highest bidder for cash, except as hereinafter provided in section twenty-three of this article, such personal property, or so much thereof as may be necessary.

ARTICLE 5. PROCEEDINGS IN AID OF EXECUTION; INTERROGATORIES; SUGGESTION.
§38-5-8. Sale of real estate conveyed to officer.

Real estate conveyed to an officer under this article shall, unless such court direct otherwise, be sold, after
giving at least thirty days' notice, by posting the same
at the door of the courthouse of such officer's county and
some other conspicuous place, near the residence of the
owner, if he be a resident of the county, and by publishing
the same as a Class II legal advertisement in compliance
with the provisions of article three, chapter fifty-nine
of this code, and the publication area for such publication
shall be the county. The real estate shall be conveyed to
the purchaser by the officer or his deputy.

ARTICLE 11. MISCELLANEOUS LIENS AND PLEDGES.
§38-11-14. Enforcement of lien or pledge; sale of property.
Any person holding personal property in his possession
under a lien or pledge may satisfy such lien in any man-
er agreed upon between the owner and the lienor, or, if
there be no such agreement, in the following manner:
The lienor or pledgee shall give a written notice to
the person on whose account the goods are held, and to
any other person known by the lienor to claim an interest
in the goods. Such notice shall be given by delivery in
person or by registered letter addressed to the last-
known place of business or abode of the person to be
notified. The notice shall contain:
(a) An itemized statement of the lienor's or pledgee's
claim, showing the sum due at the time of the notice and
the date or dates when it became due;
(b) A brief description of the goods against which
the lien or pledge exists;
(c) A demand that the amount of the claim as stated
in the notice, and of such further claim as shall accrue,
shall be paid on or before a day mentioned, not less than
ten days from the delivery of the notice if it is personally
delivered, or from the time when the notice should reach
its destination, according to the due course of the post,
if the notice is sent by mail; and
(d) A statement that unless the claim is paid within
the time specified the goods will be advertised for sale
and sold by auction at a specified time and place.
In accordance with the terms of a notice so given, a
sale of the goods by auction may be had to satisfy any
valid claim of the lienor or pledgee for which he has a
lien or pledge on the goods. The sale shall be had in the
place where the lien or pledge was acquired, or, if such
place is manifestly unsuitable for the purpose, at the
nearest suitable place. After the time for the payment of
the claim specified in the notice to the depositor has
elapsed, an advertisement of the sale, describing the
goods to be sold, and stating the name of the owner or
person on whose account the good are held, and the time
and place of the sale, shall be published as a Class II
legal advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the pub-
lication area for such publication shall be the place where
such sale is to be made. The sale shall not be held less
than fifteen days from the time of the first publication:
Provided, however, That if the property to be sold is of
the value of less than five hundred dollars, then it shall
not be necessary to advertise the sale in a newspaper as
hereinbefore provided, but notice of the sale may be
published by posting the same at least ten days before
such sale in three conspicuous places therein, one of
which places shall be the premises where the property is
sold.

From the proceeds of such sale or pledge the lienor or
pledgee shall satisfy his lien, including the reasonable
charges of notice, advertisement and sale. The balance,
if any, of such proceeds shall be held by the lienor or
pledgee and delivered on demand to the person to whom
he would have been bound to deliver or justified in
delivering the goods.

At any time before the goods are so sold any person
claiming a right of property or possession therein may
pay the lienor or pledgee the amount necessary to satisfy
his lien or pledge and to pay the reasonable expenses
and liabilities incurred in serving notices and advertising
and preparing for the sale up to the time of such pay-
ment. The lienor or pledgee shall deliver the goods to the
person making such payment, if he is a person entitled
to the possession of the goods or payment of charges
thereon. Otherwise the lienor or pledgee shall retain
possession of the goods according to the terms of the
original contract of deposit.
ARTICLE 12. RELEASE AND ASSIGNMENT OF LIENS.

§38-12-3. Release by trustee when un-named persons are secured; publication; effect.

If a trustee in a trust deed which secures persons not named in the trust deed shall publish, as herein-after provided, a notice that he will, on a day named in such notice, such day to be not more than thirty nor less than ten days after the last publication of such notice, release such trust deed, such trustee may execute such release and make distribution of any funds in his hands as such trustee without any liability to any person not named in the trust deed nor known to the trustee to be a beneficiary of the trust. Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such trust deed is recorded.

ARTICLE 13. ASSIGNMENT BY INSOLVENT FOR THE BENEFIT OF ALL CREDITORS.

§38-13-5. Notice by trustee to creditors; publication and mailing.

Within ten days after the filing of the schedule the trustee shall cause to be published a notice reading substantially as follows:

"To the Creditors of ______________________________________:

Take notice that a general assignment for the benefit of creditors was made by the above named debtor to ______________________________________, Trustee, on____________________________________ and that said assignment has been duly recorded in the office of the Clerk of the County Court of__________________________ County.

All persons having claims against the said debtor are hereby notified that the same shall be presented to the undersigned trustee on or before____________________________________. The estate has been referred to____________________________________, Commissioner of Accounts, and the first meeting of the creditors will be held in his office at____________________________________, in __________________________, County, West Virginia, on__________________________.
at ______________ o'clock. M. Dated this __________ day of 19________ .

(Signed) __________________________, Trustee
(Address of Trustee) ____________________________ . "

Said notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the assignment, conveyance or transfer was recorded.

A copy of the said notice shall be mailed by the trustee on or before the date of the first publication thereof to every creditor whose name appears in the schedule or of whom the trustee has notice, to the assignor and to the commissioner of accounts, and an affidavit evidencing such mailing and publication shall be filed by the trustee with the commissioner.

§38-13-9. Sales by trustee; creditors may prescribe manner and terms; powers of commissioner; compromising claims; continuing operation of business.

At the first meeting of creditors a majority in number and amount of the creditors present may prescribe in what manner and on what terms the property belonging to the estate shall be sold, and the trustee shall not sell, or otherwise dispose of, any property belonging to the estate prior to the first meeting of the creditors, unless expressly authorized to do so by the commissioner of accounts after good cause therefor has been shown. The trustee shall not sell or otherwise dispose of, the property belonging to the estate for less than seventy-five per cent of its appraised value without the approval of the commissioner. The trustee may compromise or compound any claim or debt belonging to the estate with the approval of the commissioner. All sales by the trustee shall be made at public auction, unless otherwise ordered by the commissioner or authorized by the creditors. The trustees shall give at least ten days' notice by mail to all of the creditors of the time and place of sale of any property belonging to the estate of the value of five hundred dollars, or more, and shall advertise the sale.
as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Such notice and advertisement may be waived by the creditors at their first meeting. Upon application to the commissioner, and for good cause shown, the trustee may be authorized to sell any portion of the estate at private sale, in which case he shall keep an accurate record of each article sold, the price received therefor and to whom sold, which account he shall file with the commissioner. Upon application by the trustee or a creditor setting forth that a part or the whole of the estate is perishable, the nature and location of such perishable property, and that there will be loss if the same is not sold immediately, the commissioner, if satisfied, of the facts stated and that the sale is required in the interests of the estate, may order the same to be sold without notice or with such notice as he may direct. Upon application by the trustee or a creditor setting forth that it is for the best interest of the estate that the trustee continue to operate the business, the commissioner may authorize the trustee to operate the business until the in number and amount of the creditors present shall determine whether such operation is to be continued thereafter.

CHAPTER 39. RECORDS AND PAPERS.

ARTICLE 3. RECONSTRUCTION OF LOST RECORDS AND PAPERS.

§39-3-11. Publication of notice.

1 Such clerk shall give notice, as hereinafter provided, of the time and place of the commencement of taking such testimony. A copy of which notice, together with the affidavit of publication, shall be recorded in the book aforesaid. Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The costs of publishing such notice shall be paid by the county.
CHAPTER 44. ADMINISTRATION OF ESTATES AND TRUSTS.

ARTICLE 2. PROOF AND ALLOWANCE OF CLAIMS AGAINST ESTATES OF DECEDENTS.

§44-2-2. Commissioner to publish notice of time for receiving claims against decedents' estates.

Each month the commissioner of accounts shall publish a notice designating a convenient time and place when and where claims against the estate or estates referred to him during the previous calendar month may be presented, examined and allowed. The time so designated by the commissioner shall not be less than four months nor more than six months from the date of the first publication of the notice hereinafter set forth. The notice shall be to the following effect:

To the Creditors and Beneficiaries of the Estate(s) of ____________________:

All persons having claims against the estate(s) of the said ____________________, (Naming the decedent or decedents, as the case may be) whether due or not, are notified to exhibit same, with the voucher thereof, legally verified, to the undersigned, at (designating the place) on or before the ______ day of ______, 19_____; otherwise they may by law be excluded from all benefit of said estate(s). All beneficiaries of said estate(s) may appear on or before said day to examine said claims and otherwise protect their interests.

Given under my hand this ______ day of ______, 19______.

Commissioner of Accounts,

County of ____________________

Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The publication of such notice shall be equivalent to personal service on the creditors, distributees and legatees, or any of them.
ARTICLE 4. ACCOUNTING BY FIDUCIARIES.

§44-4-11. Publication and posting of list of fiduciaries prior to settlements.

Every commissioner of accounts shall, on the first Monday of every month, prepare a list of the fiduciaries whose accounts are at the date of such list before him for settlement, except those that may have been mentioned in some previous list, stating the names of such fiduciaries, the nature of their accounts, whether as personal representative, guardian, curator, committee, or trustee, and the names of their decedents, or of the persons for whom they are guardians, curators, or committees or under whose deed or other instrument of trust they are acting; and shall also publish such list each month as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The first publication of such list shall be made on said first Monday of the month, or on some following day of the same week. No account of any fiduciary shall be completed by any commissioner until it shall have been mentioned in such a list, nor until the completion of such publication. Any commissioner of accounts who fails to publish such list shall be fined twenty dollars. The cost of the publication of such list shall be borne by the commissioner, but he may charge to, and collect from, each of the fiduciaries in the list his proportionate part of the cost thereof as and when the commissioner collects his fees for settling the accounts of such fiduciary.

ARTICLE 8. REAL ESTATE OF DECEDENTS.

§44-8-8. Reference to a commissioner and publication of notice to creditors in such suit.

No decree for the distribution of the proceeds of the real estate of such deceased person among his creditors shall be made until there shall have been a reference to a commissioner in chancery to ascertain and report all the liens on the real estate or any part thereof, the holders of such liens, the amount due to each, and the priorities thereof, and report made of all general claims and the priorities of the same, and until a notice to all
creditors to present and prove their claims shall have
been published as hereafter provided, which notice shall
be in the following form or to the following effect:

To all creditors of A______________ B_______________,
deceased, including those holding liens by judgment or
otherwise on his real estate, or any part thereof.

In pursuance of a decree of the______________court, of
the county of_______________, made in a cause there-
in pending, to subject the real estate of the said
A______________ B_______________ to the payment of
his debts, including those which are liens on such real
estate, or any part of it, you are hereby required to
present your claims to the undersigned for adjudica-
tion, at (designating place) on or before the__________day
of_______________; otherwise you may by law be
excluded from all benefit of such real estate.

Given under my hand this__________day of__________,
19__________.

C______________ D______________
Commissioner in chancery.

Such notice shall be published as a Class II legal ad-
vertisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publica-
tion area for such publication shall be the county in
which the action is pending. The court shall designate
the newspaper in which such notice shall be published.
The court may direct such other notice to be given
as it may deem proper. Such publication of such no-
tice shall be equivalent to personal service thereof on all
creditors, including those holding liens on such real
estate, unless the court shall in the order directing
publication otherwise order. Any creditor who may
have filed his claim before a commissioner of accounts
may withdraw the same and the proof thereof made
before such commissioner, and may file such claim and
proof before the commissioner in chancery, and such
commissioner in chancery shall, unless there be objec-
tion by any party to the suit, accept such proof for what
the same may legally show. No other publication to
creditors than the one provided by this section shall
be necessary, and when any notice of the reference is
required by law or by the court to be published, such
notice of the reference shall be included in the above
notice, so that there may be but one publication.

ARTICLE 9. PERSONS PRESUMED TO BE DEAD AND THEIR
ESTATES.

§44-9-3. Application for probate or administration, and publi-
cation of notice thereof.

1 Whenever letters testamentary or of administration
are applied for on the estate of any person supposed
to be dead on account of the existence of facts giving
rise to the presumption of death, the county court or
clerk thereof, if satisfied that the person applying there-
for, or presenting a will or codicil of the supposed de-
cedent for probate, would be entitled to such letters,
or to such probate, if the supposed decedent were in fact
dead, shall cause to be published, as hereinafter pro-
vided, a notice that such application has been made and
that on a day certain, which shall not be less than two
weeks after the last publication of such notice, the court
will hear evidence concerning the alleged absence of
the supposed decedent and the circumstances and dura-
tion thereof. Such notice shall be published as a Class II
legal advertisement in compliance with the provisions
article three, chapter fifty-nine of this code, and the publi-
cation area for such publication shall be the county.

§44-9-9. Publication in such suit.

1 Such personal representative, upon the institution of
such suit, shall cause notice to the supposed decedent
to be issued by the clerk of the circuit court, that such
suit has been instituted and that such supposed dece-
dent, if alive, is required to appear on a certain day of
a regular or special term of said court not less than three
nor more than six months from the date of the first
publication of such notice as hereinafter required. Such
notice shall be published as a Class II legal advertise-
ment in compliance with the provisions of article three,
chapter fifty-nine of this code, and the publication area
for such publication shall be the county where the suit
is brought. When practicable, such notice shall also
be published once a week for two successive weeks in a
newspaper published at or near the place where such
supposed decedent was last known to reside beyond this
state, or in this state, if the supposed decedent was not
known to have left the same and such place is in a
county other than the one where the suit is pending.

ARTICLE 11. TRANSFER OF PROPERTY OF NONRESIDENTS.

§44-11-2. Affidavit as to publication of notice.

There shall be filed, with such officer or agent as is
mentioned in the preceding section, the affidavit of some
credible person that notice of the proposed transfer has
been published as a Class II legtl advertisement in com-
pliance with the provisions of article three, chapter fifty-
nine of this code, and the publication area for such publi-
cation shall be the county in which are kept the books
upon which the transfer is proposed to be made. But if,
before such transfer be actually made, a notice in writ-
ing forbidding the same be served on such officer or
agent, such transfer only shall be made as would have
been lawful if this and the preceding section had not
been enacted.

§44-11-5. Notice of application and evidence required before
order of transfer made.

No such order as is mentioned in the two preceding
sections shall be made until notice of the application
shall have been published as a Class II legal advertise-
ment in compliance with the provisions of article three,
chapter fifty-nine of this code, and the publication area
for such publication shall be the county in and which
the petition is filed; nor until it shall be shown by authen-
tic documentary evidence that such foreign guardian.
committee or trustee has, where he qualified, given bond,
with surety sufficient to insure his accountability for
the whole amount of the estate of such infant, insane
person, or cestui que trust in his hands, or which will
probably be received by him as such guardian, committee
or trustee; nor until the court shall be satisfied that the
removal of such money or property from this state will
not impair the rights or be prejudicial to the interests
of such infant, insane person or cestui que trust or of any
other person.
§44-11-7. What notice and evidence required before such transfer made.

No such order as is mentioned in the preceding section shall, when applied for by petition, be made until notice of the application shall have been given to all persons interested in such trust estate, either by personal service or by publication of such notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county wherein the petition is filed. Whether the application be by petition or bill in equity, such order shall not be made until the court shall be satisfied by authentic documentary evidence that the nonresident trustee, administrator, or executor, appointed as aforesaid, has given bond with sufficient security for the faithful execution of the trust, nor until it is satisfied that the payment and removal of such estate out of the state will not prejudice the right of any person interested or to become interested therein.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 3. TRADE-MARKS OF DEALERS IN LIQUIDS.

§47-3-2. Manner of adoption of such trade-mark.

Every such bottler desiring to adopt a trade-mark may do so by the execution of a writing in form or effect as follows:

Notice is hereby given that I (or we, etc., as the case may be), have adopted the following trade-mark to be used in my (or our, etc.,) business as a bottler, to-wit: (Here insert the words, letters, figures, etc., constituting the trade-mark, or if it be any device other than words, letters or figures, etc., insert a facsimile thereon).

Dated this_________day of_______________________, 19____

(signed) A_________________________ B_______________________

Such writing shall be acknowledged or proved for record in the same manner as deeds are acknowledged or proved for record, and shall be recorded in the office of the clerk of the county court of the county where the principal office or place of business of such bottler may be, and also in the office of the secretary of state, and a
ARTICLE 4. BRANDS OF TIMBER DEALERS.

§47-4-2. Manner of adoption of such brand.

1 Every such dealer desiring to adopt a brand may do so by the execution of a writing in form or effect as follows:

2 Notice is hereby given that I (or we, etc., as the case may be) have adopted the following brand to be used in my (or our, etc.), business as timber dealer (or dealers), to-wit: (Here insert the words, letters, figures, etc., constituting the brand, or if it be any device other than words, letters or figures, insert a facsimile thereof).

3 Dated this ______________ day of __________________________, nineteen

4

5

6 A______________________ B______________________

7 Such writing shall be acknowledged or proved for record in the same manner as deeds are acknowledged or proved, and shall be recorded in the office of the clerk of the county court of the county in which the principal office or place of business of such timber dealer may be, and also in the office of the secretary of state, and a copy thereof shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be said county.

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 4. ADOPTION.

§48-4-3. Proceedings on petition; appointment of next friend; contents of decree.

1 Upon the presentation of such petition to the court, or judge thereof in vacation, the same shall be ordered filed with the clerk of such court, and the court or judge thereof shall appoint a day for the hearing of such petition and the examination under oath of the parties in interest.

2 And the court or judge thereof may adjourn the hear-
ing of such petition or the examination of the parties in interest from time to time, as the nature of the case may require. Between the time of the filing of the petition for adoption and the hearing thereon, the court may cause a discreet inquiry to be made respecting the child, for the purpose of ascertaining whether such child is a proper subject for adoption and shall cause a discreet inquiry to be made respecting the home of the petitioner or petitioners to determine whether it is a suitable home for such child. Such inquiry shall be made by any suitable person or agency designated by the court, and the results thereof shall be embodied in a full written report and shall be submitted to the court at or prior to the hearing upon the petition and shall be filed with the records of the proceeding and become a part thereof. If it shall be necessary, under the provisions of this article, that a discreet and suitable person shall be appointed to act as the next friend of the child sought to be adopted, then and in that case the court or judge thereof shall order a notice of the petition and of the time and place when and where the appointment of next friend will be made, to be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where such court is located. At the time and place so named and upon due proof of the publication of such notice, the court or judge thereof shall make such appointment, and shall thereupon assign a day for the hearing of such petition and the examination of the parties interested. Upon the day so appointed the court or judge thereof shall proceed to a full hearing of the petition and examination of the parties in interest, under oath and of such other witnesses as the court or the judge thereof may deem necessary to fully develop the standing of the petitioners and their responsibility, and the status of the child sought to be adopted; and if the court or judge thereof shall be of the opinion from the testimony that the facts stated in the petition are true, and if upon examination the court or the judge thereof is satisfied that the petitioner is, or the petitioners are, of
good moral character, and of respectable standing in the
community, and are able properly to maintain and edu-
cate the child sought to be adopted, and that the best
interests of the child would be promoted by such adop-
tion, then and in such case the court or judge thereof
shall make a decree reciting at length the facts proved
and the name by which the child shall thereafter be
known, and declaring and adjudging that from the date
of such decree, the rights, duties, privileges and relations
existing between the child and his or her parents, shall
be in all respects at an end, excepting the right of in-
heritance, and that the rights, duties, privileges and rela-
tions between the child and his or her parent or parents
by adoption shall thenceforth in all respects be the same,
including the right of inheritance, as if the child had
been born to such adopting parent or parents in law-
ful wedlock, except only as otherwise provided in this
article.

ARTICLE 5. CHANGE OF NAME.

§48-5-1. Petition to circuit court for change of name; contents
thereof; notice of application.

Any person desiring a change of his own name, or
that of his child or ward, may apply therefor to the
circuit court of the county in which he resides, or judge
thereof in vacation, by petition setting forth that he has
been a bona fide resident of such county for at least
one year prior to the filing of the petition, the cause
for which the change of name is sought, and the new
name desired; and previous to the filing of such peti-
tion such person shall cause to be published a notice of
the time and place that such application will be made,
which notice shall be published as a Class I legal adver-
tisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publica-
tion area for such publication shall be the county.
CHAPTER 49. CHILD WELFARE.

ARTICLE 5. JUVENILE COURTS.

§49-5-8. Same—Service of summons.

1 A person named in the petition shall be made a defendant and shall be notified of the proceedings by personal service of summons, which shall require the person to appear with the child at the time and place set for the proceedings. If the defendant cannot be found, service may be by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 6. GENERAL RECEIVERS.


1 Whenever it shall appear to any circuit court that any fund in its charge and in the hands of its general receiver, for a period of at least twenty years, will, in all probability never be claimed by any one entitled thereto, the court may order such fund applied to any loss of or shrinkage in the investments of such general receiver due to economic condition, and may release such general receiver from any further liability on account of such fund so in his hands.

2 But before entering any such order, the court shall cause a notice of such intention to be given by the clerk of said court by publication thereof as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be said county. If no claimant shall appear and establish a right to said fund within one year from the date of the last publication thereof, the court may take said facts to have been fully established, and shall so apply said fund.

CHAPTER 54. EMINENT DOMAIN.

ARTICLE 2. PROCEDURE.

§54-2-3. Notice; riparian owner affected by taking of water.

1 Of such application ten days' notice shall be served on the owners, claimants and persons holding liens,
whose interests the applicant seeks to condemn, and
the notice may be given either before the petition is
presented or afterwards. But where the owners of the
real estate proposed to be taken or the persons hold-
ing such liens or conflicting claims, or any of them, are
nonresidents of the state or their whereabouts is un-
known, or they are unknown to the applicant, or there
be any persons made parties defendant by the general
description of parties unknown as provided in section
two of this article, the notice as to them, instead of be-
ing thus served, may be given by advertisement contain-
ing (by reference to a plat filed for the purpose in the
office of the clerk of the circuit court or otherwise) a
specific description of the property in which they are
interested that is proposed to be taken, and stating the
purpose to which it is intended to be appropriated, and
the time and place at which a hearing will be asked
upon the application, which advertisement shall be pub-
lished as a Class II legal advertisement in compliance
with the provisions of article three, chapter fifty-nine
of this code, and the publication area for such publica-
tion shall be the county.

Where water is to be taken as authorized in section
ten, article one of this chapter, notice to riparian owners
having lands below the point at which the water is
proposed to be taken, and likely to be affected thereby,
shall be given by by publishing the same as a Class II
legal advertisement in compliance with the provisions
of article three, chapter fifty-nine of this code, and the
publication area for such publication shall be the county.
Any such riparian owner may come into court or be-
fore the judge of such court in vacation, on the return
day of the notice and publication, make himself a party
to the proceedings and have his rights passed upon by
the commissioner and his damage, if any, ascertained,
allowed and paid as in this chapter provided for the tak-
ing of lands.
CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALES.

ARTICLE 12. JUDICIAL SALES.

§55-12-2. Notice of sale; contents; publication.
1 Whenever a court shall decree the sale of real estate, if it appear to the court that such real estate is of the value of five hundred dollars or more, it shall prescribe in the decree that such sale shall be advertised in a newspaper by the commissioner or person appointed to make the sale. It shall always be advertised as a Class III-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the real estate to be sold is situate. In the advertisement the commissioner shall state the time, terms and place of sale, together with a description of the property to be sold: Provided, however, That nothing herein shall be construed to limit the power of the court to direct sales of lands to be advertised in newspapers where the value may be less than five hundred dollars.

CHAPTER 56. PLEADING AND PRACTICE.

ARTICLE 2. NOTICES AND MOTIONS.

§56-2-2. Service by publication.
1 Any such notice to a person not residing in this state may be served by the publication thereof as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the suit or action is pending.

ARTICLE 3. WRITS, PROCESS AND ORDER OF PUBLICATION.

§56-3-24. Contents of order of publication; publishing.
1 Every order of publication shall give the style of the suit, state briefly its object, and require the defendants against whom it is entered, or the unknown parties, to appear within one month after the date of the first publication thereof and do what is necessary to protect their interests. It shall be published as a Class II legal advertisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the order is made or directed. The newspaper shall be designated by the party directing such order or his attorney, but if no paper be so designated, then in such paper as the court may direct, or if the court make no direction, then as the clerk of the court may prescribe. It shall be deemed to have been published on the date of the second publication thereof.

§56-3-28. Requisites of publication in such court.

Such order of publication shall be entered by the clerk in a suitable book kept by him for the purpose and signed by him, and a certified copy of such order shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. Both the newspaper and the publication area shall be designated in the order of publication. When it shall appear that such order of publication has been duly published as aforesaid, the court may proceed to hear and decide such cause in the same manner as if such parties had been personally served with process:

Provided, however, That the order of publication shall have been executed, as aforesaid, at least ten days before the day on which any such cause may be called for hearing.

ARTICLE 7. PROCEDURE ON ORDERS OF REFERENCE.

§56-7-3. Notice by commissioner.

The court ordering an account to be taken may direct that the time and place of taking the same be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. The newspaper shall be designated by the party at whose instance such publication is made or his attorney, and if no newspaper be so designated, then the court shall designate the newspaper. Such publication shall be equivalent to personal service on the parties or any of them. In any case where all persons whose interests may be affected by the proceedings be-
fore a commissioner are known, it shall be sufficient that, in lieu of such publication of the notice as aforesaid, such persons, or their counsel (or one of their counsel, if there be more than one), be served with such notice in the manner provided by section one, article two of this chapter.

ARTICLE 8. ABATEMENT, REVIVAL, DISCONTINUANCE, REINSTATEMENT OF SUITS, SUBSTITUTION OF PARTIES.


All causes in which orders of dismissal have been made, or orders of non-suit entered, which orders have been set aside and causes reinstated, shall remain upon the docket and be proceeded with in the same manner as if the order had never been made. But no such cause shall be the county. The newspaper shall be designated defendant therein shall have had at least twenty days' personal notice in writing, or, if he be a nonresident, by publication that such cause has been reinstated on the docket as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the action is pending.

CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL ADVERTISEMENTS.

ARTICLE 3. NEWSPAPERS AND LEGAL ADVERTISEMENTS.

§59-3-1. Definitions and general provisions.

(a) As used in this article, elsewhere in this code or in any other provision of law:

(1) "Legal advertisement" means any notice, advertisement, statement, information or other matter required by law or court to be published.

(2) "Publication area" means the area or areas for which a legal advertisement is required by law or court to be made.

(3) "Once a week for two successive weeks" means two publications of a legal advertisement in a qualified newspaper occurring within a period of fourteen consecutive days with at least an interval of six full days
within such period between the date of the first publication and the date of the second publication.

(4) "Once a week for three successive weeks" means three publications of a legal advertisement in a qualified newspaper occurring within a period of twenty-one consecutive days with at least an interval of six full days within such period between the date of the first publication and the date of the second publication and with at least an interval of six full days within such period between the date of the second publication and the date of the third publication.

(5) "Publication date" means the date on which a qualified newspaper is first placed in circulation.

(6) "General circulation" means not only a newspaper meeting the other qualifications specified in subsection (b) of this section and circulated among and of interest to the general public in the area in which it circulates, but also a newspaper meeting said other qualifications, the actual circulation of which throughout the publication area is large enough to give basis for a reasonable belief that publication of a legal advertisement therein will give effective notice to the residents of the publication area.

(b) Wherever the term "qualified newspaper" or "qualified newspapers" is used in this article, or the term "newspaper" or "newspapers" is used elsewhere in this code or in any other provision of law in connection with a legal advertisement as herein defined, the terms shall be taken to mean only a newspaper or newspapers, as the case may be, published (unless otherwise expressly provided) in the state of West Virginia, and which meet the following qualifications:

(1) Any such newspaper must be of regular issue and must have a bona fide, general circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published for at least one year immediately preceding the date on which the legal advertisement is delivered to the newspaper for publication. A newspaper shall be
deemed to be of bona fide, general circulation in the publication area if it meets the definition of "general circulation" as defined above and is circulated to the general public at a definite price or consideration. And

(2) Any such newspaper must bear a title or name, consist of not less than four pages without a cover, and be a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements, and other notices.

(c) Notwithstanding any other provision of this code or law to the contrary, a qualified newspaper shall for all purposes be considered to be published where it is first placed in circulation.

§59-3-2. Designation of newspapers; frequency of publication; posting.

1 (a) A Class I legal advertisement shall be published one time, a Class II legal advertisement shall be published once a week for two successive weeks, and a Class III legal advertisement shall be published once a week for three successive weeks, in a qualified newspaper published in the publication area; or if there is no qualified newspaper published in the publication area or if no qualified newspaper published in the publication area or if no qualified newspaper published outside the publication area will publish the legal advertisement at the rates specified in section three of this article, the legal advertisement shall be published in a qualified newspaper published outside the publication area; or if no qualified newspaper is published outside the publication area or if no qualified newspaper published outside the publication area will publish the legal advertisement at the rates specified in section three of this article, the legal advertisement shall be posted in at least three public places in the publication area, one of which postings shall be in the county courthouse, at or near the front door thereof, if a county courthouse is located in the publication area and one of which postings shall be in the municipal office building or municipal office or offices, at or near the front door thereof, if the publication area is a municipality.
(b) A Class I-0 legal advertisement shall be published one time, a Class II-0 legal advertisement shall be published once a week for two successive weeks, and a Class III-0 legal advertisement shall be published once a week for three successive weeks, in two qualified newspapers of opposite politics published in the publication area; or if two qualified newspapers of opposite politics are not published in the publication area or if two qualified newspapers of opposite politics published in the publication area will not publish the legal advertisement at the rates specified in section three of this article, the legal advertisement shall be published in one qualified newspaper published in the publication area; or if there is no qualified newspaper published in the publication area or if no qualified newspaper published in the publication area will publish the legal advertisement at the rates specified in section three of this article, the legal advertisement shall be published in one qualified newspaper published outside the publication area; or if no qualified newspaper is published outside the publication area or if no qualified newspaper published outside the publication area will publish the legal advertisement at the rates specified in section three of this article, the legal advertisement shall be published in at least three public places in the publication area, one of which postings shall be in the county courthouse, at or near the front door thereof, if a county courthouse is located in the publication area and one of which postings shall be in the municipal office building or municipal office or offices, at or near the front door thereof, if the publication area is a municipality.

(c) A legal advertisement may be published in a qualified newspaper published on any day of the week except Sunday.

(d) All legal advertisements shall be published together in continuous columns on one page of the newspaper publishing same under a general heading styled "Legal Advertisement", unless the number or size of such legal advertisements requires the use of more than one page, in which event such legal advertisements shall be
§59-3-3. Rates.

(a) The rates which a publisher or proprietor of a qualified newspaper in West Virginia may charge and receive for a single or first publication of any legal advertisement set solid shall depend upon the bona fide circulation of such newspaper, as follows:

1. Four cents per word if the qualified newspaper has a bona fide circulation of ten thousand or less; or
2. Five cents per word if the qualified newspaper has a bona fide circulation of more than ten thousand but less than forty thousand; or
3. Five and three-fourths cents per word if the qualified newspaper has a bona fide circulation of forty thousand or more.

(b) In computing the number of words in a legal advertisement, not set solid, the basis shall be upon the size of type in which legal advertising is set by the qualified newspaper making the publication, and shall be computed at the legal rate as though the matter was solid type, that is to say, on the basis of eighty-four words to the single column inch in six point type, and fifty-four words to the single column inch in eight point type, and any other size type in proportion.

(c) In determining the cost of a legal advertisement which is to appear more than once in the same qualified newspaper, the cost for the first publication shall be computed as specified in subsections (a) and (b) of this section, and the cost of the second and each subsequent publication shall be sixty per cent of the cost of the first publication computed as aforesaid.

(d) In determining the cost of a legal advertisement which is to appear within the same calendar week in two qualified newspapers published in the same county by the use of the same composition and press facilities in the county, the cost shall be the cost, computed as specified in subsections (a) and (b) of this section, for publication of the legal advertisement in the qualified newspaper with the highest bona fide circulation and...
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forty per cent of the cost, computed as specified in sub-
sections (a) and (b) of this section for publication of the
legal advertisement in the other qualified newspaper.
(e) The rates provided for in this section may be
charged on and after the first day of July, one thousand
nine hundred sixty-seven. Between the effective date of
this act and said the first day of July, one thousand nine
hundred sixty-seven, the rates for publishing legal adver-
tisements shall be those in effect immediately prior to the
effective date of this act. The average bona fide circula-
tion stated by each qualified newspaper in the statement
filed by such newspaper with the United States post office
department in October, one thousand nine hundred sixty-
six, shall control the rate circulation classification of such
qualified newspaper for the period from the first day of July, one thousand nine hundred sixty-seven, until the
first day of July, one thousand nine hundred sixty-eight.
On or before the first day of March, one thousand nine
hundred sixty-eight, the publisher or proprietor of each
newspaper desiring to publish any legal advertisement
during the ensuing fiscal year shall file with the secretary
of state an affidavit stating the average bona fide circula-
tion of such newspaper during the preceding calendar
year, and sufficient facts shall be set forth in the affidavit
to show whether such newspaper is a qualified news-
paper. The average bona fide circulation stated in such
affidavit by each qualified newspaper shall control the
rate circulation classification of such qualified newspaper
for the ensuing fiscal year, beginning on the first day of
July, one thousand nine hundred sixty-eight. The pub-
lisher or proprietor of each newspaper desiring to pub-
lish any legal advertisement during the ensuing fiscal
year shall file an affidavit as aforesaid on or before the first
day of March of each succeeding year, and such affidavit
shall control the rate circulation classification of such
newspaper, if it is a qualified newspaper, for the ensuing
fiscal year. Any qualified newspaper for which the re-
quired affidavit is not filed on or before the first day of
March of any calendar year after the year one thousand
nine hundred sixty-seven shall be conclusively presumed
to have for the ensuing fiscal year a bona fide circulation
79 of less than four thousand. At the time a publisher or
80 proprietor of a qualified newspaper files an affidavit with
81 the secretary of state as aforesaid, such publisher or pro-
82 prietor shall notify the clerk of the county court and the
83 board of education of the county in which such qualified
84 newspaper is published of the circulation classification of
85 such qualified newspaper and of the applicable rate for
86 publishing legal advertisements in such qualified news-
87 paper during the ensuing fiscal year. If the qualified
88 newspaper is published in a municipality, the publisher
89 or proprietor shall at the same time also furnish the same
90 notification to the clerk or recorder of such municipality.

§59-3-4. Proof of publication and posting.
1 (a) Any qualified newspaper publishing a legal ad-
2 vertisement incident to any type of judicial proceed-
3 ing or any provision in a deed of trust or contract, or
4 incident to any other case if required by the responsible
5 party placing the legal advertisement for publication,
6 shall make and furnish under oath, an affidavit of publi-
7 cation of each legal advertisement so published, show-
8 ing the number of times it was published in such quali-
9 fied newspaper, the dates of the publications thereof,
10 and the cost of such publications. When posting of
11 any legal advertisement is required in addition to publi-
12 cation thereof in a qualified newspaper, such posting
13 shall be done by the publisher or proprietor of the quali-
14 fied newspaper in which the legal advertisement was
15 published, and in such cases the affidavit of publication
16 shall state when and where the legal advertisement
17 was posted. In any case where any legal advertisement
18 is not required to be published in a qualified newspaper
19 but is required to be posted, an affidavit of the type
20 provided for herein with respect to posting shall be
21 made by the party who would have been responsible
22 for causing the legal advertisement to be published in
23 a qualified newspaper had the same been required.
24 (b) The affidavit of the publisher or proprietor of a
25 qualified newspaper as aforesaid, together with a copy
26 of the legal advertisement as published, shall constitute
27 prima facie evidence that the legal advertisement was
§59-3-5. Mandamus to compel publication.

1 Any citizen, taxpayer, or the publisher or proprietor of any qualified newspaper entitled by law to have any legal advertisement published in his qualified newspaper, which any county court or tribunal created in lieu thereof, board of education, governing body of any municipal corporation, or public officer, shall fail or refuse to make, may have a writ of mandamus to compel such publication, if a qualified newspaper is willing to accept the legal advertisement for publication at the rates prescribed in section three of this article.

§59-3-6. Political advertisements.

1 In no case involving the publication of paid advertisements for candidates for political office shall the rate charged by any publisher or proprietor of any newspaper be more than the average rate received by him from private patrons for similar advertising composed of reading matter or photographs and requiring the same amount of space.

§59-3-7. Criminal and civil penalties.

1 (a) Any person who publishes a legal advertisement and who knowingly refused to file with the secretary of state the affidavit for the fiscal year in which the legal advertisement was published, as required by the provisions of section three of this article, or to make and furnish the affidavit required by the provisions of section four of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars.

1 (b) Any person who shall knowingly file a false affidavit required by the provisions of this article shall be guilty of false swearing and upon conviction thereof shall be punished as provided for that offense.

1 (c) Any qualified newspaper which shall knowingly charge any rates in excess of those specified in sec-
§59-3-8. Construction of article; repeal; subsequent legislation.

This article is intended to standardize and make uniform certain areas of the law relating to newspapers, qualified newspapers, legal advertisements and publication of a newspaper or qualified newspaper, and to this end all other provisions in this code or elsewhere in law pertaining to such subjects shall be construed so as to conform to and be consistent with the pertinent provisions of this article. As to those provisions in this code or elsewhere in law which are so inconsistent with the provisions of this article as to preclude such construction, such other provisions, whether general or specific in character, are hereby repealed to the extent of such inconsistency. No subsequent legislation shall be held to supersede or modify the provisions of this article except to the extent that such legislation shall do so specifically and expressly. The provisions of this act shall not affect the publication and/or posting of any legal advertisements commenced, in process or completed prior to the effective date of this act.


If any provision of this act or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the act, and to this end, the provisions of this act are declared to be severable.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 4. LICENSES.

§60-4-10. Notice of application for license.

A person who desires to apply for a license authorized by the provisions of this chapter shall, not more than
thirty nor less than ten days before the filing of formal
application, give notice of his intention. He shall give
notice by posting a statement of his intention in such
form as the commission may require at the front door
or principal entrance of the place where the business is
to be conducted. He shall also publish notice, in such
form as the commission may require, as a Class I legal
advertisement in compliance with the provisions of ar-
ticle three, chapter fifty-nine of this code, and the pub-
lication shall be the county in which he intends to do busi-
ness: Provided, however, That retail druggists desiring
to sell alcoholic liquors on prescriptions shall not be sub-
ject to the provisions of this section: Provided further,
That such retail druggists shall file formal application
in writing with the commission and shall pay the license
fee.

ARTICLE 5. LOCAL OPTION ELECTIONS.
§60-5-4. Notice of election; when held; election officers.
1 The county court or governing body of the municipal-
ity shall give notice of the special "local option election"
by publication thereof as a Class II-0 legal advertisement
in compliance with the provisions of article three, chap-
ter fifty-nine of this code, and the publication area for
such publication shall be the area in which the election
is to be held. Such notice shall be so published within
fourteen consecutive days next preceding the election.
The election shall be held not more than ninety nor less
than sixty days from the filing of the petition. The reg-
ular election officers of the county or municipal corpora-
tion shall open the polls and conduct the election in the
same manner provided for general elections.

ARTICLE 6. MISCELLANEOUS PROVISIONS.
§60-6-21. Court procedure as to contraband and forfeited
articles.
Proceedings for confiscation of articles, conveyances
or vehicles declared contraband and forfeited to the state
under section twenty shall be had in the circuit or in-
fierior court having criminal jurisdiction, either in vaca-
tion or term time, in the county where such articles,
conveyances or vehicles were seized, and the procedure shall be as follows:

(1) When such articles, conveyances or vehicles have been seized under or without a warrant provided for in section eighteen of this article, by an officer charged with the enforcement of this chapter, the officer shall take possession of such article, conveyance or vehicle and deliver the same and the alcoholic liquors so seized to the sheriff of the county in which such seizure was made, taking his receipt therefor in duplicate.

(2) The officer making such seizure shall forthwith report in writing of such seizure to the prosecuting attorney of the county in which such seizure was made and to the commission.

(3) Within not less than ten days nor more than sixty days after receiving notice of any such seizure, the prosecuting attorney for the county shall file, in the name of the state, a petition against the seized property, in the clerk's office of the circuit court of the county, returnable to the circuit court or inferior court having criminal jurisdiction, which petition shall be filed by the clerk without fee and may be heard by said court or judge thereof in vacation.

(4) Such petition shall allege the seizure, and set forth in general terms, the grounds of forfeiture of the seized property, and shall pray that the same be forfeited to the state and the proceeds disposed of according to law, and that all persons concerned or interested may appear and show cause why said property should not be forfeited to the state.

(5) The owner of and all persons in any manner then indebted or liable for the purchase price of said property, and any person having a lien thereon, if they be known to the prosecuting attorney, shall be made parties defendant thereto, and shall be served with the notice issued by the clerk of such court, hereinafter provided for in the manner provided by law for serving a notice, at least ten days before the day therein specified for the hearing on said petition, if they be residents of this state, and, if they be unknown or nonresidents, or cannot with
reasonable diligence be found in this state, they shall be
demed sufficiently served by publication of said notice
as a Class II legal advertisement in compliance with the
provisions of article three, chapter fifty-nine of this code,
and the publication area for such publication shall be
said county.

(6) Any person claiming to be the owner of such
seized property, or to hold a lien thereon or have an in-
terest therein, may appear at any time before final judg-
ment of the trial court, and be made a party defendant
to the petition so filed, which appearance shall be by an-
swer, under oath, in which shall be clearly set forth the
nature of such defendant's claim or interest.

(7) If the court or judge thereof in vacation shall
that illegally acquired alcoholic liquors or alcoholic li-
quors being illegally transported in amounts in excess
of one gallon, were not found in such conveyance or ve-
hicle at the time of the seizure thereof, the judgment of
the court shall be to entirely relieve said property from
forfeiture, and no costs shall be taxed against such claim-
ant.

(8) If the court or judge thereof in vacation trying
the issue shall find or if it be admitted that said convey-
ance or vehicle at the time of the seizure contained ille-
gally acquired liquor or that alcoholic liquors were being
transported therein, nevertheless:

(a) If it shall appear to the satisfaction of the court
that such claimant is the bona fide owner and was such
owner at the time of such seizure and that he was igno-
ant of such illegal use thereof and the illegal use was
without his connivance or consent, expressed or implied,
the court shall relieve said conveyance or vehicle from
forfeiture and restore it to such claimant and no cost
shall be taxed against such claimant.

(b) If it shall appear to the satisfaction of the court
that such claimant is the holder of a bona fide lien against
the property and was the holder of such lien at the time
of such seizure and that he was ignorant of such illegal
use thereof, or the use so made of such conveyance or
vehicle was without his connivance or consent, expressed
or implied, and that the claimant has perfected his lien, the court shall, (1) If the lien so established is equal to or more than the value of the conveyance or vehicle, such conveyance or vehicle shall be delivered to the lienor upon the payment of storage and cost, (2) If the lien is less than the value of the conveyance or vehicle, the lienor may have said conveyance or vehicle delivered to him upon payment of the difference in amount as determined in such proceedings; but should the lienor not demand delivery as aforesaid, an order shall be made for the sale of said property by the sheriff of the county, in the manner prescribed by law for sale of personal property under execution, out of the proceeds of which sale shall be paid, first, the storage, if any, second, the cost, third, the lien, and the residue, if any, shall be paid to the commission. (9) If, however, no valid lien or claim is established against the seized property upon the trial of the petition, or, if it shall be determined that the owner thereof was himself using the same at the time of the seizure or that such illegal use was with his knowledge or consent, express or implied, the said property shall be completely forfeited to the state and turned over to the commission in accordance with the provisions of this chapter. (10) In every case, the alcoholic liquors so seized shall be deemed contraband and forfeited to the state as heretofore provided.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.
ARTICLE 7. DANGEROUS WEAPONS.
§61-7-2. License to carry weapons; how obtained.
1 Any person desiring to obtain a state license to carry any such weapon as is mentioned in the first section of this article, within one or more counties in this state, shall first publish a notice setting forth his name, residence and occupation, and that on a certain day he will apply to the circuit court of his county for such state license. Such notice shall be published as a Class I
legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such person resides. Such notice shall be published at least ten days before such application is made. After the publication of such notice and at the time stated in such notice, upon application to such court, it may grant such license to such person, in the following manner, to-wit:

The applicant shall file with such court his application in writing, duly verified, which application shall show:

(a) That such applicant is a citizen of the United States of America;
(b) That the applicant has been a bona fide resident of this state for at least one year next prior to the date of such application, and of the county sixty days next prior thereto.
(c) That the applicant is over twenty-one years of age; that he is a person of good moral character, of temperate habits, not addicted to intoxication, and has not been convicted of a felony or of any offense involving the use on his part of such weapon in an unlawful manner, and shall prove to the satisfaction of the court that he is gainfully employed in a lawful occupation and has been so engaged for a period of five years next preceding the date of his application;
(d) The purpose or purposes for which the applicant desires to carry such weapon, the necessity therefor, and the county or counties in which such license is desired to be effective.

Upon the hearing of such application the court shall hear evidence upon all matters stated in such application and upon any other matter deemed pertinent by the court, and if such court be satisfied from the proof that there is good reason and cause for such person to carry such weapon, and all of the other conditions of this article be complied with, the court, or the judge thereof in vacation, may grant such license for such purposes, and no other, as such court, or the judge in vacation, may set out in the
license (and the word "court" as used in this article shall include the circuit judge thereof, acting either in term or vacation); but, before such license shall be effective such person shall pay to the sheriff, and the court shall so certify in its order granting the license, the sum of twenty dollars, and shall also file a bond with the clerk of such court, in the penalty of three thousand five hundred dollars, with good security, signed by a responsible person or persons, or by some surety company, authorized to do business in this state, conditioned that such applicant will not carry such weapon except in accordance with his application and as authorized by the court, and that he will pay all costs and damages accruing to any person by the accidental discharge or improper, negligent or illegal use of such weapon or weapons. Any such license granted shall be good for one year, unless sooner revoked, as hereinafter provided, and be coextensive with the county in which granted, and such other county or counties as the court shall designate in the order granting such license; except that upon a proper showing the court granting such license to any person regularly employed as a security guard may, in its discretion, in the order granting such license extend the period of the validity of such license for a period not to exceed four years, under such terms and conditions as the court deems proper; except that regularly appointed deputy sheriffs having license shall be permitted to carry such revolver or other weapons at any place, within the state, while in the performance of their duties as such deputy sheriffs; and except that any such license granted to regularly appointed railway police shall be coextensive with the state. All license fees collected hereunder shall be paid by the sheriff and accounted for to the auditor as other license taxes are collected and paid, and the state tax commissioner shall prepare all suitable forms for licenses, bonds and certificates showing that such license has been granted and shall do anything else in the premises to protect the state and see to the enforcement of this section.
The clerk of the circuit court shall, immediately after license is granted as aforesaid, furnish the superintendent of the department of public safety a certified copy of the order of the court granting such license, for which service the clerk shall be paid a fee of two dollars which shall be taxed as cost in the proceeding. It shall be the duty of the clerk of each circuit court to furnish to the superintendent of the department of public safety, at any time so required, a certified list of all such licenses issued in his county.

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-28. Same—Local option election; petition; election procedure; form of ballot; effect of such election.

1 The county court of any county is hereby authorized to call a local option election for the purpose of determining the will of the voters as to whether the provisions of section twenty-five of this article shall continue in effect in said county.

2 A petition for such local option election shall be in the form hereinafter specified and shall be signed by qualified voters residing within said county equal to at least ten per cent of the persons qualified to vote within said county at the last general election. Said petition may be in any number of counterparts and shall be sufficient if substantially in the following form:

PETITION ON LOCAL OPTION ELECTION
RESPECTING WORK, LABOR OR BUSINESS ON SUNDAY IN

COUNTY, WEST VIRGINIA

Each of the undersigned certifies that he or she is a person residing in County, West Virginia, and is duly qualified to vote in said county under the laws of the state, and that his or her name, address and the date of signing this petition are correctly set forth below.

The undersigned petition said county court to call and hold a local option election upon the following question:

Shall the provisions of section 25, article 10, chapter 61 of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, continue in effect in ____________________ County, West Virginia?

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Date</th>
</tr>
</thead>
</table>

(Each person signing must specify either his postoffice address or his street number.)

Upon the filing of a petition for a local option election in accordance with the provisions of this section, the county court shall enter an order calling a local option election and providing that the same shall be held at the same time and as a part of the next primary or general election to be held in said county. Said county court shall give notice of such local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Such notice shall be so published within fourteen consecutive days next preceding said election.

Each person qualified to vote in said county at said primary or general election shall likewise be qualified to vote at the local option election. The election officers appointed and qualified to serve as such at said primary or general election shall conduct said local option election in connection with and as a part of said primary or general election. The ballots in said local option election shall be counted and returns made by the election officers and the results certified by the commissioners of election to said county court which shall canvass the ballots, all in accordance with the laws of the state of West Virginia relating to primary and general elections insofar as the same are applicable. The county court shall, without delay, canvass the ballots cast at said local option election and certify the result thereof.

The ballot to be used in said local option election shall have printed thereon substantially the following:

"Shall the Sunday Closing Law continue in effect in County of West Virginia?

[ □ ] Yes [ □ ] No

(Place a cross mark in the square opposite your choice.)"
68 If a majority of the voters voting at any such local
69 option election vote no on the foregoing question, the
70 provisions of section twenty-five, article ten, chapter
71 sixty-one of the code of West Virginia, one thousand nine
72 hundred thirty-one, as amended, shall no longer continue
73 in effect in said county.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tempesta
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

Takes effect May 1, 1967.

J. Howard Tucker
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard H. Carawan
President of the Senate

H. L. Macon White
Speaker House of Delegates

The within approved this the 17
day of March, 1967.

Nelson C. Smith
Governor
PRESENTED TO THE GOVERNOR

Date 3/17/67

Time 1:15 P.M.