

WEST VIRGINIA LEGISLATURE


REGULAR SESSION, 1968

ENROLLED

Com. Sub. for
SENATE BILL NO. 24

(By ~~Mr.~~ Originating in the Senate
on the Judiciary)

PASSED February 6, 1968

In Effect from  Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-16-68

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 24

(Originating in the Committee on the Judiciary)

[Passed February 6, 1968; in effect from passage.]

AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eighteen, relating to urban mass transportation systems and authorities; providing a short title, legislative findings and declaration of policy and definitions; providing for the creation of authorities, their members and officers, compensation, terms and votes of members; providing for meetings of boards of authorities, quorums, records and budgets; authorizing authorities to acquire, construct, reconstruct,

complete, develop, improve, own, equip, operate and maintain urban mass transportation systems and prescribing other powers and duties; providing for contributions to be made to authorities; providing for the preparation of and adoption of transportation plans; providing procedures for the acquisition or construction of urban mass transportation systems; providing for the issuance of revenue bonds and for trust indentures, sinking funds and protection and enforcement of rights of bondholders in connection therewith; setting forth the authority of the public service commission of West Virginia with respect to authorities; providing that the indebtedness of authorities shall not constitute the indebtedness of any participating government and exempting authorities and their bonds and other evidence of indebtedness and the interest thereon from taxation; providing for the protection of employees of existing urban mass transportation systems; providing a conflict of interest provision; providing for sealed bids for supplies, equipment and materials and the construction of facilities; making said bonds legal investments; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

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

**ARTICLE 18. URBAN MASS TRANSPORTATION SYSTEMS AND
AUTHORITIES.**

§8-18-1. Short title.

1 This article may be cited as the "Urban Mass Transpor-
2 tation Authority Act of 1968."

§8-18-2. Legislative findings and declaration of policy.

1 The Legislature hereby finds and declares:

2 (a) That a significant part of the population of this
3 state is located in expanding urban areas;

4 (b) That in certain of these areas there are no urban
5 mass transportation systems and in others there are urban
6 mass transportation systems which are inadequate or in
7 imminent danger of becoming inadequate or in imminent
8 danger of discontinuing such service;

9 (c) That the establishment and maintenance of ade-
10 quate urban mass transportation systems in such areas is

11 essential for preserving viable urban areas and further
12 promoting the healthful, safe, orderly and economical de-
13 velopment and expansion of such urban areas;

14 (d) That the creation of urban mass transportation
15 authorities to establish and maintain urban mass trans-
16 portation systems in such areas is for the welfare of the
17 people of this state in general and of the participating
18 governments in particular, and is a public purpose for
19 which public money may be spent and private property
20 acquired; and

21 (e) This article is enacted in view of these findings and
22 shall be liberally construed in the light thereof.

§8-18-3. Definitions.

1 As used in this article, unless a different meaning ap-
2 pears from the context:

3 (a) "Authority" means any urban mass transportation
4 authority created pursuant to the provisions of this
5 article;

6 (b) "Board" means the board of any urban mass trans-
7 portation authority;

8 (c) "Contiguous counties" means two or more counties

9 which constitute a compact territorial unit within an un-
10 broken boundary wherein one county touches at least
11 one other county, but does not require that each county
12 touch all of the other counties so combining;

13 (d) "Facilities and equipment" means all real and
14 personal property of every kind and character owned or
15 held by any urban mass transportation system for the
16 purpose of providing transportation by bus or rail or other
17 conveyance serving the public;

18 (e) "Governing body" means, as the case may be, either
19 (1) the council or other body exercising the powers com-
20 monly exercised by the council of a municipality or (2)
21 the county court created by article eight, section twenty-
22 two of the West Virginia constitution or a tribunal in
23 lieu of a county court;

24 (f) "Municipality" means a city, town or village
25 incorporated under the laws of West Virginia;

26 (g) "Participating government" means any county or
27 municipality establishing or participating in an urban
28 mass transportation authority;

29 (h) "Person" means any individual, firm, partnership,

30 corporation, company, association, or joint stock associa-
31 tion, or the legal successor or successors thereof;

32 (i) "Project" means any undertaking of an authority;

33 (j) "Revenues" means the gross receipts derived di-
34 rectly or indirectly from or in connection with the opera-
35 tion by an authority of any urban mass transportation
36 system or systems and shall include, without limitation,
37 all fees, rates, fares, rentals or other income actually
38 received or receivable by or for the account of an author-
39 ity from the operation of the system, and any other
40 receipts from whatever source derived;

41 (k) "Service area of the authority" means and includes
42 an area commensurate with the area served by an exist-
43 ing system or systems acquired or to be acquired by an
44 authority, or if there be no existing system, the area
45 shall extend to and include an area to be defined in the
46 certificate of convenience and necessity issued by the
47 public service commission of West Virginia under the
48 applicable provisions of chapter twenty-four and chapter
49 twenty-four-a of this code;

50 (1) "System" means any urban mass transportation
51 system;

52 (m) "Trust indenture" means a security instrument
53 entered into by an authority pursuant to which bonds or
54 notes are issued;

55 (n) "Urban area" means any area that includes a
56 municipality or other built-up place which is appropriate
57 for a system to serve commuters or others in the locality
58 taking into consideration the local patterns and trends of
59 growth;

60 (o) "Urban mass transportation system" means any
61 common carrier of passengers for hire which operates
62 equipment over regular routes within the service area of
63 the authority; and

64 (p) The singular shall include the plural and the
65 plural shall include the singular.

**§8-18-4. Urban mass transportation authorities authorized;
authorities to be public corporations.**

1 Any county or municipality, or both, or any two or more
2 contiguous counties, or any two or more municipalities
3 within any county or contiguous counties, or any combina-
4 tion thereof, may create an urban mass transportation
5 authority. Such authority shall be created upon the adop-

6 tion, by the governing body of each participating govern-
7 ment, acting individually, of an appropriate order or
8 ordinance. Each authority shall constitute a public
9 corporation, and as such, shall have perpetual existence.

**§8-18-5. Management of authority vested in board; eligibility,
appointment, number and term of members; vote of
members; vacancies.**

1 The management and control of any authority, its
2 operations, business and affairs shall be lodged in a
3 board of not less than five nor more than fifteen indi-
4 viduals who shall be known as members of the board and
5 who shall be appointed for terms of three years each by
6 the governing bodies of the participating governments.
7 Prior to making the initial appointments to the board, the
8 governing bodies of the participating governments shall
9 agree to make such initial appointments so that approxi-
10 mately one third of the total number of the members to
11 be so appointed shall be appointed for a term of one
12 year, approximately one third of such total number of the
13 members shall be appointed for a term of two years and
14 approximately one third of such total number of the mem-

15 bers shall be appointed for a term of three years. As
16 the term of each such initial appointee expires, the suc-
17 cessor to fill the vacancy created by such expired term
18 shall be appointed for a term of three years. The number
19 of members representing each participating government
20 shall be as agreed upon from time to time by the govern-
21 ing bodies of the said participating governments. Each
22 member of the board shall have one vote on all matters
23 coming before it. Any individual who is a resident of, or
24 member of the governing body of, any participating gov-
25 ernment is eligible to serve as a member of the board. The
26 governing body of each participating government shall in-
27 form the authority of its appointments or reappointments
28 to the board by delivering to the authority a certified copy
29 of the order or ordinance making the appointment or
30 reappointment. If any member of the board dies, resigns,
31 or for any other reason ceases to be a member of the
32 board, the governing body of the participating govern-
33 ment which such member represented shall appoint
34 another individual to fill the unexpired portion of the
35 term of such member.

§8-18-6. Compensation of members; expenses.

1 As compensation for his services on the board each
2 member shall receive from the authority the sum of
3 fifty dollars for each meeting actually attended. The
4 total compensation paid to any member by the authority
5 for any fiscal year shall not exceed in the aggregate the
6 sum of six hundred dollars. Each member shall also
7 be reimbursed by the authority for any reasonable and
8 necessary expenses actually incurred in the discharge
9 of his duties as a member of the board.

**§8-18-7. Meetings of authority; officers; employees; bonds;
records of authority public records.**

1 At its first meeting, to be held no later than sixty
2 days from the creation of the authority as provided in
3 section four of this article, the board shall elect from
4 its membership a president to act during the next
5 ensuing fiscal year, or until his successor is elected and
6 qualified. At that time, the board shall also elect a vice
7 president, a secretary and a treasurer and such other
8 officers as may be required, who need not be members
9 of the board, whose duties shall be defined and whose

10 compensation shall be fixed by the board and paid out
11 of the funds of the authority. The treasurer, and such
12 other officers and employees as the board shall direct,
13 shall furnish bond for the use and benefit of the authority
14 in such penal sum as may be fixed by the board and
15 conditioned upon the faithful discharge by such treasurer
16 and such other officers and employees so directed by the
17 board of the duties of their respective offices or em-
18 ployment, and upon accounting for and paying over all
19 moneys which may come into their possession by virtue
20 of such office or employment. At its first meeting the
21 board shall also fix the time and place for holding regu-
22 lar meetings, but it shall meet at least once in the
23 months of January, April, July and October. Special
24 meetings of the board may be called by the president
25 or by two members upon written request to the secretary.
26 The secretary shall send to all the members, at least
27 two days in advance of a special meeting, a written notice
28 setting forth the time and place of the meeting and the
29 matters to be considered at such meeting. Written
30 notice of a special meeting is not required if the time

31 of the special meeting has been fixed in a regular meet-
32 ing, or if all the members are present at the special
33 meeting. All regular meetings shall be general meetings
34 for the consideration of any and all matters which may
35 properly come before an authority. All proceedings of
36 the authority shall be entered in a permanently bound
37 record book, properly indexed, and the same shall be care-
38 fully preserved by the secretary of the authority. All
39 records of the authority shall be public records.

§8-18-8. Quorum; majority vote required.

1 A majority of the members of the board, which ma-
2 jority must include members from a majority of the
3 participating governments, shall constitute a quorum.
4 The vote of a majority of all members present at any
5 meeting of the board shall be necessary to take any action.

§8-18-9. Budget.

1 The board shall establish the beginning and ending of
2 its fiscal year, which period shall constitute its budget
3 year, and at least thirty days prior to the beginning of
4 the first full fiscal year after the creation of the authority
5 and annually thereafter the treasurer shall prepare and

6 submit to the board a tentative budget. Such tentative
7 budget shall be considered by the board, and, subject to
8 any revisions or amendments that may be determined
9 by said board, shall be adopted as the budget for the
10 ensuing fiscal year. No expenditures in excess of the
11 budget shall be made during such fiscal year unless
12 expressly authorized and directed by the board. It shall
13 not be necessary to include in such budget any statement
14 of necessary expenditures for annual interest or principal
15 payments on bonds or for capital outlays, but it shall
16 be the duty of the board to make provisions for their
17 payment as they become due.

§8-18-10. Powers and duties of authorities generally.

1 Each authority is hereby given the power:

2 (a) To sue and be sued, implead and be impleaded;

3 (b) To have and use a seal and alter the same at
4 pleasure;

5 (c) To make and adopt all rules, regulations and by-
6 laws as may be necessary or desirable to enable it to ex-
7 ercise the powers and perform the duties conferred or
8 imposed upon it by this article;

9 (d) To employ, in its discretion, planning, architec-
10 tural and engineering consultants, attorneys, accountants,
11 construction, financial, transportation and traffic experts
12 and consultants, superintendents, managers, and such
13 other employees and agents as may be necessary in its
14 judgment, and to fix their compensation;

15 (e) To acquire by grant, purchase, gift, devise or lease
16 and to hold, use, sell, lease or otherwise dispose of real
17 and personal property of every kind and nature whatso-
18 ever, licenses, franchises, rights and interests necessary
19 for the full exercise of its powers pursuant to the pro-
20 visions of this article, or which may be convenient or
21 useful for the carrying out of such powers;

22 (f) To acquire, construct, reconstruct, complete, de-
23 velop, improve, own, equip, operate and maintain any sys-
24 tem or systems, or any part thereof, including, without
25 limitation, the power to acquire by purchase, lease, or
26 gift all or any part of any licenses, franchises, rights,
27 interests, engineering and technical studies, data or
28 reports owned or held by any person and determined
29 by its board to be necessary, convenient or useful to the

30 authority in connection with the acquisition, construction,
31 reconstruction, completion, development, improvement,
32 ownership, equipping, operation or maintenance of any
33 system or systems and to reimburse public utilities for
34 relocation of any utility line or facility made necessary by
35 the construction, reconstruction, completion, develop-
36 ment, improvement, equipping, operation or maintenance
37 of any system or systems;

38 (g) To acquire any land, rights or easements deemed
39 necessary or incidental for the purposes of the authority
40 by eminent domain to the same extent and to be exercised
41 in the same manner as now or hereafter provided by law
42 for such right of eminent domain by business corpora-
43 tions;

44 (h) To enter into contracts and agreements which
45 are necessary, convenient or useful to carry out the
46 purposes of this article with any person, public corpora-
47 tion, state or any agency or political subdivision thereof
48 and the federal government and any department or
49 agency thereof, including, without limitation, contracts
50 and agreements for the joint use of any property and

51 rights by the authority and any person or authority oper-
52 ating any system, whether within or without the service
53 area of the authority and contracts and agreements with
54 any person or authority for the maintenance, servicing,
55 storage, operation or use of any system or part thereof,
56 facility or equipment on such basis as shall seem proper
57 to its board;

58 (i) To enter into contracts and agreements for super-
59 intendence and management services with any person,
60 who has executive personnel with experience and skill
61 applicable to the superintendence and management of any
62 system, for the furnishing of its services and the services
63 of experienced and qualified personnel for the superin-
64 tendence and management of any system or any part
65 thereof, including, without limitation, superintendence
66 over personnel, purchases, properties and operations and
67 all matters relating thereto, and any revenue bond trust
68 indenture may require such contract. The personnel
69 whose services are to be so furnished under such
70 contract shall not include any member of the board,
71 any member of the immediate family of a member

72 of the board or any agents or employees of the author-
73 ity. No contract shall extend beyond a term of ten
74 years or such longer time as there are outstanding
75 any revenue bonds under a trust indenture which requires
76 such contract;

77 (j) To assume any lien indebtedness of any system
78 or part thereof acquired by it under the provisions of this
79 article;

80 (k) To execute security agreements, contracts, leases,
81 equipment trust certificates and any other forms of con-
82 tracts or agreements, granting or creating a lien, security
83 interest, encumbrance or other security in, on or to
84 facilities and equipment, containing such terms and
85 provisions as the board deems necessary;

86 (l) To apply for, receive and use grants, grants-
87 in-aid, donations and contributions from any source or
88 sources, including, but not limited to, the federal gov-
89 ernment and any agency or department thereof, and
90 a state government whose constitution does not pro-
91 hibit such grants, grants-in-aid, donations and contri-
92 butions, and any agency or department thereof, and

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93 to accept ^{and} use bequests, devises, gifts and donations ~~from~~
94 from any person;

95 (m) To lease any system or any part thereof to, or
96 contract for the use of any system or any part thereof by,
97 any person. A trust indenture may prohibit, limit or re-
98 strict the exercise of such power;

99 (n) To acquire for cash or in exchange for its bonds
100 all or any part of any publicly or privately owned system
101 or systems;

102 (o) To make or cause to be made either by itself
103 or in cooperation with other persons or organizations,
104 whether public or private, traffic~~s~~ surveys, population
105 surveys and such other surveys and studies as it shall
106 consider useful in the performance of its duties or the
107 exercise of its powers under the provisions of this article
108 and in connection therewith the authority may con-
109 tract with any person or organization for such planning
110 services;

111 (p) To enter into contracts and agreements with any
112 public or private system either within or contiguous to
113 its boundaries for the transfer of passengers between it

114 and the system operating in territory contiguous to its
115 boundaries;

116 (q) To fix and establish from time to time subject to
117 the approval of the public service commission such fees,
118 rates or other charges and routes, time schedules and
119 standards of service as will provide revenues in
120 each year at least sufficient to pay the principal of and
121 interest on all bonds issued by the authority, and reason-
122 able reserves therefor, as the same shall become due, to-
123 gether with the cost of operation, administration, mainte-
124 nance and repair of such system or systems in each year,
125 together with all other payments required in each such
126 year by the resolution which authorized the issuance of
127 such bonds, or the trust indenture securing the same, in-
128 cluding, without limitation, reasonable reserves or mar-
129 gins for any of such purposes. Every authority shall file
130 and keep on file the information specified in section two,
131 article six, chapter twenty-four-a of this code in the
132 manner and form as therein provided;

133 (r) To issue revenue bonds of the authority for any of
134 its purposes or projects and to refund its bonds, all as
135 provided in this article;

136 (s) To encumber or mortgage all or any part of its
137 facilities and equipment;

138 (t) To prepare plans for and assist in the relocation of
139 persons displaced by the authority and to make relocation
140 payments to or with respect to such persons for moving
141 expenses and losses of property for which reimbursement
142 or compensation is not otherwise made, including the
143 making of such payments financed by the federal govern-
144 ment; and

145 (u) To do any and all things necessary or convenient
146 to carry out the powers given in this article unless other-
147 wise forbidden by law.

148 The exercise of any of the powers herein granted is
149 expressly made subject to the provisions of section
150 eighteen of this article, wherever the same are applicable.

**§8-18-11. Contributions to authorities; funds and accounts of
authorities; audit by state tax department.**

1 Contributions may be made to authorities from time
2 to time by the participating governments and by any
3 other municipalities, counties, persons, firms or corpora-
4 tions that shall desire to do so. All such funds and all
5 of the other funds received by any authority shall be de-

6 posited in a separate account in such bank or banks as
7 its board may direct and shall be withdrawn therefrom
8 only in such manner as its board may direct. Each
9 authority shall keep strict account of all its receipts and
10 expenditures and shall make a quarterly report to the
11 participating governments which have made contribu-
12 tions to it and such report shall contain an itemized ac-
13 count of its receipts and disbursements, during the pre-
14 ceding quarter. Such report shall be made within sixty
15 days after the termination of the quarter. Within ninety
16 days after the end of each fiscal year, each authority shall
17 make an annual report containing an itemized statement
18 of its receipts and disbursements for the preceding fiscal
19 year, and any and all other information which the board
20 may deem pertinent, to all of the participating govern-
21 ments. The books, records and accounts of each authority
22 shall be subject to audit and examination by the state
23 tax department of West Virginia.

**§8-18-12. Study and plan of operation; adoption of transporta-
tion plan.**

1 The authority, as soon as practical after its organization,

2 shall prepare a comprehensive plan with respect to a pro-
3 gram for a unified or officially coordinated system as a
4 part of a comprehensively planned development of the
5 urban area within its service area. Said program, to the
6 maximum extent feasible, shall provide for the participa-
7 tion of privately-owned systems.

8 In the preparation of a comprehensive plan, an author-
9 ity shall make careful and comprehensive surveys and
10 studies of the existing conditions and probable future
11 changes of such conditions within its service area. The
12 comprehensive plan shall be made for the general purpose
13 of guiding and accomplishing a coordinated, adjusted and
14 harmonious development of systems within the service
15 area which, in accordance with present and future needs
16 and resources, will best promote the health, safety and
17 general welfare of the inhabitants of the service area, as
18 well as the orderly and economical development and ex-
19 pansion of the service area.

20 Prior to the adoption of a comprehensive plan, the
21 authority shall submit its tentative plan to the govern-
22 ing bodies of the participating governments and hold a

23 public hearing in the service area on the plan. At least
24 thirty days prior to the date set for hearing, the authority
25 shall publish a notice of the time and place of the hearing
26 as a class II legal advertisement in compliance with the
27 provisions of article three, chapter fifty-nine of this code,
28 and the publication area for such publication shall be the
29 service area of the authority. After a public hearing has
30 been held, the authority may by resolution adopt the com-
31 prehensive plan and may from time to time amend, sup-
32 plement or change the comprehensive plan in the same
33 manner in which it was adopted.

**§8-18-13. Resolution authorizing acquisition or construction
of urban mass transportation systems.**

1 Before the authority shall acquire or construct any
2 system, the authority shall adopt a proper resolution
3 which shall include:

4 (a) The estimated cost of the acquisition or construction
5 and all incidental expenses connected therewith;

6 (b) The probable sources ^{of} ~~or~~ revenue and the estimated
7 amount thereof;

8 (c) The estimated cost of operation, administration,
9 maintenance and repair thereof;

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10 (d) The proposed methods of financing; and

11 (e) Any other information which the authority shall
12 deem appropriate.

13 Such resolution shall also:

14 (a) Order the acquisition or construction of such
15 system;

16 (b) If appropriate, direct that revenue bonds in such
17 amount as the authority may deem necessary to pay all
18 or any part of the cost of acquisition or construction of
19 such system be issued pursuant to the provisions of this
20 article; and

21 (c) Set forth the amount of the principal of the in-
22 debtedness, the maximum term the bonds proposed to be
23 issued shall run before maturity and the maximum rate
24 of interest to be paid and such other details with respect
25 to the bonds and the trust indenture, if any, securing the
26 same as the authority may deem necessary or desirable.

27 Before such resolution shall become effective, the
28 authority shall submit such resolution to the governing
29 bodies of the participating governments and hold a
30 public hearing in the service area on the resolution. At

31 least thirty days prior to the date set for hearing, the
32 authority shall publish a notice of the time and place of
33 hearing as a class II legal advertisement in compliance
34 with the provisions of article three, chapter fifty-nine of
35 this code, and the publication area for such publication
36 shall be the service area of the authority. At such hear-
37 ing all objections and suggestions shall be heard and
38 after the hearing has been held the authority shall take
39 such action as it shall deem proper.

§8-18-14. Revenue and refunding bonds—generally.

1 The authority is hereby authorized to provide by reso-
2 lution, from time to time, for the issuance of revenue
3 bonds of the authority for the purpose of paying all or
4 any part of the cost of acquiring, constructing or im-
5 proving a system or systems, or any part thereof, or
6 the facilities and equipment therefor, as the case may
7 be, or for any other purpose or project authorized by
8 the provisions of this article. The purposes for which
9 revenue bonds may be issued may include the payment
10 of all costs and estimated costs incidental to or connected
11 with the accomplishment of such purpose or project in-

12 cluding, without limitation, engineering, inspection, legal,
13 fiscal agents, financial consultants and other fees, bond
14 and other reserve funds, working capital, bond interest
15 estimated to accrue during the construction period and
16 for a period not to exceed two years thereafter, and
17 expenses of all proceedings for the authorization, issuance
18 and sale of the bonds.

19 The bonds of each issue shall be dated, shall bear in-
20 terest at such rate or rates not exceeding six per centum
21 per annum, payable semiannually, shall mature at such
22 time or times not exceeding thirty years from their date
23 or dates, as may be determined by the authority, and
24 may be made redeemable before maturity, at the option
25 of the authority, at such price or prices and under such
26 terms and conditions as may be fixed by the authority
27 prior to the issuance of the bonds. The authority shall
28 determine the form of the bonds, including any interest
29 coupons to be attached thereto, and shall fix the denomi-
30 nation or denominations of the bonds and the place or
31 places of payment of the principal and interest, which may
32 be at any bank or trust company within or without the

33 state. The bonds shall be signed by the president of
34 authority or shall bear his facsimile signature, and the
35 official seal of the authority, or a facsimile thereof, shall
36 be impressed or imprinted thereupon and attested by
37 the secretary of the authority, and any coupons attached
38 to the bonds shall bear the facsimile signature of the
39 president of the authority. All such signatures, counter-
40 signatures and seal may be printed, lithographed or
41 mechanically reproduced, except that one of such sig-
42 natures or countersignatures on the bonds shall be manu-
43 ally affixed, unless the resolution authorizing the issuance
44 of such bonds shall otherwise provide. If any officer
45 whose signature or countersignature or a facsmile of
46 whose signature or countersignature appears on bonds or
47 coupons ceases to be such officer before the delivery of
48 the bonds, his signature shall be as effective as if he had
49 remained in office until such delivery. The bonds may be
50 issued in coupon or in registered form, or both, as each
51 authority may determine and provision may be made
52 for the registration of any coupon bonds as to principal
53 alone, and also as to both principal and interest, for the

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54 reconversion into coupon bonds of any bonds registered
55 as to both principal and interest, and for the interchange
56 of registered and coupon bonds. Notwithstanding the
57 form or tenor thereof, and in the absence of any express
58 recital on the face thereof that the bond is non-nego-
59 tiable, all such bonds shall be, and shall be treated as,
60 negotiable instruments for all purposes except when
61 registered in the name of a registered owner.

62 The authority may exchange its bonds, in whole or
63 in part, for any system or systems, or any parts thereof,
64 or facilities and equipment therefor, or may sell its
65 bonds, in whole or in part, in such manner either at
66 public or private sale and for such price as it may deter-
67 mine will best effect the purposes of this article and
68 be for the best interest of the authority.

69 Prior to the preparation of definitive bonds, the au-
70 thority may, under like restrictions, issue interim receipts
71 or temporary bonds with or without coupons, exchange-
72 able for definitive bonds when such bonds shall have
73 been executed and are available for delivery. The au-
74 thority may also provide for the replacement of any

75 bonds which shall become mutilated or shall be destroyed
76 or lost.

77 The authority is hereby authorized to provide by reso-
78 lution, from time to time, for the issuance, sale or exchange
79 of revenue refunding bonds of such authority for the
80 purpose of refunding any bonds then outstanding which
81 shall have been issued under the provisions of this article,
82 including the payment of any redemption premium
83 thereon and any interest accrued or to accrue to the
84 date of redemption of such bonds, and the payment of
85 all expenses incidental thereto. The authority is further
86 authorized to provide by resolution, from time to time,
87 for the issuance, sale or exchange of revenue bonds of
88 such authority for the combined purpose of refunding
89 any bonds then outstanding, as herein provided, and
90 paying all or any part of the cost of any additional project
91 or projects. All provisions of this article applicable to
92 the issuance of revenue bonds are applicable to the
93 issuance of refunding bonds and to the sale or exchange
94 thereof.

§8-18-15. Trust indenture—generally.

1 In the discretion of the authority any bonds issued
2 under the provision of this article may be secured by a
3 trust indenture by and between such authority and a
4 corporate trustee, which may be any trust company or
5 bank having the powers of a trust company, within or
6 without the state, or any person in the United States hav-
7 ing power to enter into the same, including any federal
8 agency.

9 Any resolution authorizing the issuance of such bonds
10 or any trust indenture securing the same may contain
11 such provisions for protecting and enforcing the rights
12 and remedies of the bondholders and of the trustee as
13 the authority may deem necessary and proper and not in
14 violation of law, including provisions pledging all or any
15 part of the revenues of such authority or encumbering
16 all or any part of the facilities and equipment of such
17 authority to secure the payment of the bonds subject to
18 such agreements with bondholders as may then exist;
19 limiting the purpose to which the proceeds of sale of any
20 bonds then or thereafter to be issued may be applied;

21 defining the duties of such authority in relation to the ac-
22 quisition, construction, improvement, maintenance, repair,
23 operation and insurance of any project or projects in
24 connection with which such bonds shall have been author-
25 ized; providing for the custody, safeguarding and applica-
26 tion of all moneys; limiting the issuance of additional
27 bonds; prescribing a procedure by which the provisions
28 of any trust indenture or contract with bondholders may
29 be amended or modified; requiring such authority to fix
30 and establish fees, rates or other charges and routes, time
31 schedules and standards of service as will provide
32 revenues in each year at least sufficient to pay the princi-
33 pal of and interest on all bonds issued by such authority
34 and reasonable reserves therefor as the same shall become
35 due, together with the cost of operation, administration,
36 maintenance and repair of such system or systems in
37 each year, including, without limitation, reasonable re-
38 serves or margins or sinking funds for any of such pur-
39 poses, subject to the provisions of section eighteen of this
40 article; defining the acts or omissions to act which shall
41 constitute a default in the duties of such authority to the

42 holders of its bonds and providing the rights and remedies
43 of such holders and of the trustee in event of default and
44 the manner and terms upon which such default may be
45 declared cured; vesting in a trustee such property rights,
46 powers and duties, in trust, as such authority may de-
47 termine; and such other additional provisions as such au-
48 thority may deem necessary or desirable for the security
49 of the holders of bonds issued under the provisions of this
50 article, notwithstanding that such other provisions are not
51 expressly enumerated in this section, it being the inten-
52 tion to grant the authority the power to make any and all
53 covenants or agreements necessary in order to secure
54 greater marketability for bonds issued under the pro-
55 visions of this article as fully and to the same extent as
56 such covenants or agreements could be made by a private
57 corporation rendering similar services and to grant such
58 authorities full and complete power to enter into any con-
59 tract, covenant or agreement with holders of bonds issued
60 under the provisions of this article not inconsistent with
61 this article or the constitution of the state of West Vir-
62 ginia.

**§8-18-16. Sinking fund; sinking fund commission; purchase of
outstanding bonds.**

1 At or before the issuance of any bonds under the pro-
2 visions of this article, the authority shall, by resolution,
3 provide for a sinking fund for the payment of the bonds
4 and the interest thereon, and the payment of the charges
5 of banks or trust companies for making payment of such
6 bonds, and interest, out of the net revenues of said system,
7 and, in this event, shall set aside and pledge a sufficient
8 amount of the next revenues of the system, hereby de-
9 fined to mean the revenues of the system remaining after
10 the payment of the reasonable expense of operation, ad-
11 ministration, maintenance and repair, such amount to be
12 paid by such authority into the sinking fund at intervals,
13 to be determined by resolution adopted prior to the issu-
14 ance of the bonds, for (a) the interest upon such bonds as
15 such interest shall fall due; (b) the necessary fiscal agency
16 charges for paying bonds and interest; (c) the payment
17 of the bonds as they fall due, or, if all bonds mature at one
18 time, the proper maintenance of a sinking fund sufficient
19 for the payment thereof at such time; and (d) a margin

20 for safety and for the payment of premium upon bonds
21 retired by call or purchase as provided in this article.
22 Such required payments shall constitute a first charge
23 upon all the net revenues of such authority. Prior to the
24 issuance of any bonds, the authority may, by resolution,
25 be given the right to use or direct the state sinking fund
26 commission to use such sinking fund, or any part thereof,
27 in the purchase of any of the outstanding bonds payable
28 therefrom, at the market prices thereof, but not exceeding
29 the price, if any, at which the same shall in the same year
30 be payable or redeemable, and all bonds redeemed or pur-
31 chased shall forthwith be cancelled, and shall not again
32 be issued. In addition to the payments into the sinking
33 fund as herein set forth, the authority may at any time in
34 its discretion, transfer all or any part of the balance of
35 the net revenues, after reserving an amount deemed by
36 such authority sufficient for operation, repair and mainte-
37 nance for an ensuing period of not less than twelve
38 months and for depreciation, into the sinking fund.

39 The amounts of the balance of the net revenues as and
40 when so set apart shall be remitted to the state sinking

41 fund commission at such periods as shall be designated in
42 the resolution, but in any event at least thirty days previ-
43 ous to the time interest or principal payments become
44 due, to be retained and paid out by said commission con-
45 sistent with provisions of this article and the resolution
46 pursuant to which such bonds have been issued. The
47 state sinking fund commission is hereby authorized to act
48 as fiscal agent for the administration of such sinking fund
49 under any resolution adopted pursuant to the provisions
50 of this article and shall invest all sinking funds as pro-
51 vided by general law.

§8-18-17. Remedies.

1 Any holder of bonds issued under the provisions of this
2 article or any of the coupons appertaining thereto, and
3 the trustee under any trust indenture securing the same,
4 except to the extent the rights herein given may be re-
5 stricted by such trust indenture, may, by civil action,
6 mandamus or other proceeding, protect and enforce any
7 and all rights under the laws of this state or granted
8 under the provisions of this article or under the resolu-
9 tion authorizing the issuance of such bonds, or the trust

10 indenture securing same, and may enforce and compel
11 the performance of all duties required by this article or by
12 such resolution or trust indenture to be performed by any
13 authority or by any officer thereof.

§8-18-18. Authority of public service commission.

1 Each authority which undertakes to engage in trans-
2 porting passengers for hire by motor vehicles or other
3 conveyances over regular routes shall be deemed a com-
4 mon carrier of passengers for hire and shall be subject
5 to the jurisdiction and authority of the public service
6 commission of West Virginia as provided in chapter
7 twenty-four and chapter twenty-four-a of this code, to the
8 same extent as any other common carrier of passengers
9 for hire: *Provided*, That it shall be the mandatory duty
10 of the public service commission to fix and establish, from
11 time to time, such fees, rates or other charges and routes,
12 time schedules and standards of service for each au-
13 thority as will provide revenues in each year at least
14 sufficient to pay the principal of and interest on all bonds
15 issued by that authority, and reasonable reserves therefor,
16 as the same shall become due in each year, together with

17 the cost of operation, administration, maintenance and
18 repair of such system or systems in each year, together
19 with all other payments required in each year by the
20 resolution which authorized the issuance of such bonds
21 or the trust indenture securing the same, including reason-
22 able reserves, margins or sinking funds for any of such
23 purposes.

§8-18-19. Indebtedness of authorities.

1 Each authority may issue bonds, borrow money and
2 incur any proper indebtedness and issue any other obliga-
3 tions as authorized by law or provided in this article. No
4 such indebtedness or obligation incurred by any authority
5 may give any right against any member of the governing
6 body of any participating government, or any member
7 of the board of any authority. No obligation or indebted-
8 ness of any nature of any authority shall constitute an
9 indebtedness of any participating government or the
10 governing body of any participating government, within
11 the meaning of any constitutional provision or statutory
12 limitation and shall never constitute or give rise to a
13 pecuniary liability of any participating government or

14 the governing body of any participating government, or
15 be a charge against the general credit or taxing power
16 of any participating government or the governing body
17 of any participating government, and such fact shall be
18 plainly stated on the face of any bonds issued by any
19 authority. The rights of creditors of any authority shall
20 be solely against the authority as a corporate body and
21 shall be satisfied only out of revenues, moneys or property
22 received or held by it in its corporate capacity.

§8-18-20. Exemption from taxation.

1 It is hereby found, determined and declared that the
2 creation of any authority and the carrying out of its
3 purposes is in all respects for the benefit of the people
4 of this state in general, and of the participating govern-
5 ments in particular, and is a public purpose, and that
6 the authority will be performing an essential govern-
7 mental function in the exercise of the powers conferred
8 upon it by the provisions of this article. Accordingly,
9 each authority and, without limitation, its revenues, prop-
10 erty, operations and activities, shall be exempt from the
11 payment of any taxes or fees to the state or any of its

12 political subdivisions or to any officer or employee of
13 the state or any of its political subdivisions, except the
14 special assessment provided for in section six, article
15 six, chapter twenty-four-a of this code. The revenue
16 bonds and other evidence of indebtedness issued pursuant
17 to the provisions of this article, and the interest thereon,
18 shall be exempt from taxation, except inheritance and
19 transfer taxes.

**§8-18-21. Protection of employees of existing transportation
systems.**

1 Whenever any authority acquires any existing system
2 pursuant to the provisions of this article, the employees
3 of such system shall be protected in the following
4 manner:

5 (a) The employees of such system shall be retained
6 to the fullest extent possible consistent with sound man-
7 agement, and if terminated or laid off shall be assured
8 priority of reemployment;

9 (b) The individual employees who are retained shall
10 be retained in positions the same as, or no worse than,
11 their positions prior to the acquisition of such system;

12 (c) The rights, privileges and benefits of the employees
13 under existing collective bargaining agreements shall not
14 be affected and the owning authority shall assume the
15 duties and obligations of the acquired system under any
16 such agreement;

17 (d) Collective bargaining rights shall be continued
18 with respect to employees of any acquired system;

19 (e) The rights, privileges and benefits of the em-
20 ployees under any existing pension or retirement plan
21 or plans shall not be affected and the owning authority
22 shall assume the duties and obligations of the acquired
23 system under any such plan or plans;

24 (f) The owning authority shall provide paid training
25 or retraining programs when necessary; and

26 (g) The authority owning a system, or any of the
27 employees of any system owned by the authority, shall,
28 in the case of any labor dispute relating to the terms
29 and conditions of employment which is not settled through
30 any established grievance procedure, have the right to
31 submit the dispute to final and binding arbitration by a
32 board of arbitration consisting of three arbitrators, one

33 arbitrator to be chosen by the authority, one by the em-
34 ployee and the third to be chosen by the two arbitrators
35 selected by the authority and the employee. A decision
36 of a majority of the members of the board of arbitration
37 shall be final and binding on the parties. The parties shall
38 each pay the arbitrator of its own selection, and they shall
39 jointly pay the third arbitrator and any other expenses
40 connected with submitting such labor dispute to the board
41 of arbitration.

42 In the event any authority acquires a system and (1)
43 leases such acquired system or (2) enters into a man-
44 agement contract for superintendence and management
45 services for the operation of such acquired system pur-
46 suant to any provision of this article, the lease or con-
47 tract shall include terms and provisions insuring the pro-
48 tection specified in this section.

§8-18-22. Conflict of interest.

1 No member of any authority, nor any of its officers,
2 employees, agents or consultants, shall have any interest
3 in any firm, partnership, corporation, company, associa-
4 tion or joint stock association engaged in the business of

5 providing public transportation in the area encompassed
6 by the authority, or in the manufacture, sale or lease of
7 passenger transportation equipment or facilities. No
8 member of any authority nor any of its officers, employees,
9 agents or consultants shall contract with the authority
10 or be interested in, either directly or indirectly, any con-
11 tract with such authority or in the sale of property,
12 either real or personal, to such authority. The term
13 "agents" as used in this section shall not be deemed for
14 the purposes of this section to include any persons or
15 authorities which lease from or contract for superintend-
16 ence and management services with any authority for the
17 operation, administration, maintenance or repair of any
18 system.

**§8-18-23. Competitive bids; publication of solicitations for
sealed bids.**

1 A purchase of or contract for all supplies, equipment
2 and materials and the construction of facilities by any
3 authority, when the expenditure required exceeds the
4 sum of one thousand dollars, shall be based on competi-
5 tive sealed bids. Such bids shall be obtained by public

6 notice published as class II legal advertisement in com-
7 pliance with the provisions of article three, chapter fifty-
8 nine of this code and the publication area for such pub-
9 lication shall be the service area of such authority. The
10 last of such notices shall be published at least fourteen
11 days next preceding the final date of submitting bids.
12 The notice may also be published by any other advertising
13 medium such authority may deem advisable. Such au-
14 thority may also solicit sealed bids by sending requests
15 by mail to prospective suppliers and by posting notice on
16 a bulletin board in the office of such authority.

§8-18-24. Bonds made legal investments.

1 Bonds issued under the provisions of this article shall
2 be legal investments for banking institutions, building
3 and loan associations, and insurance companies organized
4 under the laws of this state of their own funds.

§8-18-25. Complete authority of article; liberal construction.

1 This article shall constitute full and complete authority
2 for the creation of any authority and for carrying out the
3 powers and duties of any such authority and for the issu-
4 ance, sale or exchange of revenue bonds by such authority

5 as provided in this article. The provisions of this article
6 shall be liberally construed to accomplish its purpose and
7 no procedure or proceedings, notices, consents or ap-
8 provals shall be required in connection therewith except
9 as may be presented by this article: *Provided*, That all
10 applicable functions, powers, authorities and duties of the
11 public service commission of West Virginia shall remain
12 unaffected except as provided by this article.

§8-18-26. Severability.

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

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

William Tompaz
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard Meyer
Clerk of the Senate

Cl. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H. Latham White
Speaker House of Delegates

The within approved this the 14
day of February, 1968.

Hubert C. Smith
Governor



PRESENTED TO THE
GOVERNOR

Date 2/12/68

Time 3:00 P.M.

RECEIVED
FEB 12 1968
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION