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SENATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1970

**ENROLLED**

SENATE BILL NO. 15

(By Mr. Poffentargen)

PASSED Feb. 12, 1970

In Effect from Passage



FILED IN THE OFFICE  
JONAS D. ROCKEFELLER, IV  
SECRETARY OF STATE  
THIS DATE 2-18-70

151

**ENROLLED**  
**Senate Bill No. 15**  
**(By MR. POFFENBARGER)**

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[Passed February 12, 1970; in effect from passage.]

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An Act to amend and reenact section twelve, article sixteen; section fourteen, article eighteen; sections four and six, article nineteen; and section five, article twenty; all of chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the revenue bond financing of municipal public works; increasing the allowable rate of interest thereon; the issuance of such bonds; the estimate of cost and debt service for such bonds; the amount, negotiability and execution of such bonds; and the refund of outstanding obligations or securities by sale or exchange of such bonds.

*Be it enacted by the Legislature of West Virginia:*

That section twelve, article sixteen; section fourteen, article eighteen; sections four and six, article nineteen; and section

five, article twenty, all of chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND  
FINANCING.**

**§8-16-12. Interest rate and life of bonds; redemption; how payable; form, denominations, etc.; additional bonds authorized; interim certificates.**

1    Such revenue bonds shall bear interest at not more  
2    than eight percent per annum, payable semiannually, or  
3    at shorter intervals, and shall mature at such time or  
4    times, not exceeding forty years, as may be determined  
5    by the ordinance or ordinances authorizing the issuance  
6    of such bonds. Such bonds may be made redeemable  
7    before maturity, at the option of the municipality or  
8    municipalities issuing the same, to be exercised by said  
9    board, at not more than the par value thereof, and at  
10   a premium of not more than five percent, under such  
11   terms and conditions as may be fixed by the ordinance  
12   or ordinances authorizing the issuance of the bonds.  
13   The principal and interest of the bonds may be made

14 payable in any lawful medium. Such ordinance or ordi-  
15 nances shall determine the form of the bonds, including  
16 the interest coupons to be attached thereto, and shall  
17 fix the denomination or denominations of such bonds,  
18 and the place or places of the payment of the principal  
19 and interest thereof, which may be at any banking in-  
20 stitution or trust company within or without the state.  
21 When two or more municipalities take joint action under  
22 the provisions of this article, the bonds shall be issued  
23 by the participating municipalities either as separate  
24 or joint bonds, as the governing bodies thereof may  
25 agree, and when separate bonds are issued, the amount  
26 of the bonds to be issued by each participating munici-  
27 pality shall be fixed by agreement of the governing  
28 bodies of the participating municipalities set forth in  
29 the ordinance of each participating municipality au-  
30 thorizing the issuance of such bonds. The bonds shall  
31 contain a statement on their face that the municipality  
32 or municipalities issuing the same shall not be obligated  
33 to pay the same, or the interest thereon, except from the  
34 special fund derived from the net revenue of the works,

35 or the pro rata part thereof, as provided for in section  
36 eleven hereof. All such bonds shall be, and shall have  
37 and are hereby declared to have all the qualities and  
38 incidents of negotiable instruments, under the Uniform  
39 Commercial Code of this state. Provision may be made  
40 for the registration of any of the bonds in the name of  
41 the owner as to principal alone; but bonds shall be  
42 executed in such manner as the governing body or bodies  
43 may direct. The bonds shall be sold by the governing  
44 body or bodies in such manner as may be determined  
45 to be for the best interest of the municipality or municipi-  
46 palities: *Provided*, That said bonds shall not be negoti-  
47 ated at a price lower than a price which when computed  
48 to maturity upon standard tables of bond values will  
49 show a net return of more than eight percent per annum  
50 to the purchaser upon the amount paid therefor. Any  
51 surplus of the bond proceeds over and above the cost  
52 of the project shall be paid into the sinking fund herein-  
53 after provided for. If the proceeds of the bonds, by  
54 error of calculation or otherwise, shall be less than the  
55 cost of the project, additional bonds may in like manner

56 be issued to provide the amount of such deficit, and,  
57 unless otherwise provided in the ordinance or ordinances  
58 authorizing the issuance of the bonds first issued, or  
59 in the trust indenture hereinafter authorized, shall be  
60 deemed to be of same issue, and shall be entitled to  
61 payment without preference or priority of the bonds  
62 first issued; and if any preference or priority of the  
63 bonds first issued is provided for in the ordinance or  
64 ordinances authorizing the issuance of the bonds first  
65 issued or in said trust indenture, such preference or  
66 priority shall not extend to an amount exceeding ten  
67 percent of the original issue. Prior to the preparation  
68 of the definite bonds, interim certificates may, under like  
69 restrictions, be issued with or without coupons exchange-  
70 able for definite bonds upon the issuance of the latter.

**ARTICLE 18. ASSESSMENTS TO IMPROVE STREETS, SIDE-  
WALKS AND SEWERS; SEWER CONNECTIONS  
AND BOARD OF HEALTH.**

**§8-18-14. Issuance of bonds.**

1 Every municipality is hereby empowered and author-  
2 ized to issue its bonds for any improvements under the

3 provisions of this article in anticipation of special assess-  
4 ments to be made upon the property abutting upon the  
5 streets, alleys, public ways or easements, or sewer right-  
6 of-ways or easements, so improved, and such bonds may  
7 be in such an amount as will be sufficient to pay the  
8 entire estimated cost and expense of such improvements  
9 for which such special assessments are levied. Such  
10 municipality is also authorized to sell such bonds, but the  
11 price for which they are sold shall not be below the par  
12 value of such bonds. Such bonds shall be payable in not  
13 to exceed ten years from the date of the issuance thereof,  
14 and shall bear interest at not to exceed eight percent per  
15 annum, payable annually; and in the issuance and sale of  
16 such bonds, the municipality shall be governed by all the  
17 restrictions and limitations of the constitution of this state,  
18 and by the restrictions and limitations of the statutes  
19 of this state with respect to the issuance and sale of other  
20 bonds, so far as they are not in conflict with the pro-  
21 visions of this article; and the assessments shall be col-  
22 lected as provided in sections ten and twelve of this  
23 article, and as paid and collected shall be applied to the

24 liquidation of such bonds and the interest thereon; and if  
25 by reason of penalties collected with delinquent assess-  
26 ments there be any balance after the payment of such  
27 bonds and all accrued interest and cost, such balance shall  
28 be turned into the municipal treasury to the credit of the  
29 interest and sinking fund of the municipality: *Provided,*  
30 That no such municipality shall by sale or issuance of  
31 such bonds cause the aggregate of its indebtedness of  
32 every kind whatsoever to exceed five percent of the value  
33 of taxable property therein: *Provided, however,* That  
34 nothing herein contained shall be construed as authoriz-  
35 ing any such municipality to become indebted in any  
36 other manner or for any other purpose, to an amount,  
37 including its existing indebtedness, in the aggregate ex-  
38 ceeding two and one-half percent of the value of the tax-  
39 able property therein, as provided in section three, article  
40 one, chapter thirteen of this code, except for the purpose  
41 of grading, regrading, paving, repaving, surfacing, re-  
42 surfacing, curbing, recurbing, building or renewing side-  
43 walks, or constructing sewers or otherwise improving or  
44 reimproving the streets, alleys, public ways or easements,

45 or sewer right-of-ways or easements, of such municipality,  
46 as provided for in this article; nor shall such municipality  
47 make such issuance and sale without at the same time  
48 providing for the collection of a direct annual tax suffi-  
49 cient to pay annually the interest on such debt and the  
50 principal thereof within and not exceeding ten years.  
51 All of the assessments, interest and penalties collected  
52 from the abutting property owners on account of the  
53 grading, regrading, paving, repaving, surfacing, resurfac-  
54 ing, curbing, recurbing, building or renewing sidewalks,  
55 or constructing sewers or otherwise improving or re-  
56 improving the streets, alleys, public ways or easements,  
57 or sewer right-of-ways or easements, of any such mu-  
58 nicipality, under the provisions of this article, shall an-  
59 nually be applied to the annual tax required to pay the  
60 interest on such debt and such principal within and not  
61 exceeding ten years; and in the event that the assess-  
62 ments, interest and penalties so collected do not amount  
63 to a sum sufficient to pay annually the interest on such  
64 debt and the principal thereof within and not exceeding  
65 ten years, then the governing body of such municipality

66 shall collect so much of such levy as will pay annually  
67 the interest on such debt and the principal thereof within  
68 and not exceeding ten years.

**ARTICLE 19. MUNICIPAL WATERWORKS SYSTEMS.**

**§8-19-4. Estimate of cost; ordinance for issuance of revenue  
bonds; interest on bonds; rates for services.**

1 Whenever a municipality shall, under the provisions of  
2 this article, determine to acquire, by purchase or other-  
3 wise, construct, establish, extend or equip a waterworks  
4 system, it shall cause an estimate to be made of the cost  
5 thereof, and shall, by ordinance, provide for the issuance  
6 of revenue bonds under the provisions of this article,  
7 which ordinance shall set forth a brief description of the  
8 contemplated undertaking, the estimated cost thereof,  
9 the amount, rate or rates of interest, the time and place of  
10 payment, and other details in connection with the issu-  
11 ance of the bonds. Such bonds shall be in such form and  
12 shall be negotiated in such manner and upon such terms  
13 as the governing body of such municipality may by ordi-  
14 nance specify. All such bonds and the interest thereon,  
15 and all properties and revenues and income derived from

16 such waterworks system, shall be exempt from all taxa-  
17 tion by this state, or any county, municipality, political  
18 subdivision or agency thereof. Such bonds shall bear  
19 interest at not more than eight percent per annum, pay-  
20 able semiannually, and shall be payable at such times, not  
21 exceeding forty years from their date, and at such place  
22 or places, within or without the state, as shall be prescrib-  
23 ed in the ordinance providing for their issuance. Such  
24 ordinance shall also declare that a statutory mortgage lien  
25 shall exist upon the property so to be acquired, construct-  
26 ed, established, extended or equipped, fix minimum rates  
27 or charges for water to be collected prior to the payment  
28 of all of said bonds and shall pledge the revenues derived  
29 from the waterworks system for the purpose of paying  
30 such bonds and interest thereon, which pledge shall defin-  
31 itely fix and determine the amount of revenues which  
32 shall be necessary to be set apart and applied to the pay-  
33 ment of the principal of and interest upon the bonds and  
34 the proportion of the balance of such revenues which are  
35 to be set aside as a proper and adequate depreciation ac-  
36 count, and the remainder shall be set aside for the reason-

37 able and proper maintenance and operation thereof. The  
38 rates or charges to be charged for the services from such  
39 waterworks system shall be sufficient at all times to prov-  
40 ide for the payment of interest upon all bonds and to create  
41 a sinking fund to pay the principal thereof as and when the  
42 same become due, and reasonable reserves therefor, and  
43 to provide for the repair, maintenance and operation of  
44 the waterworks system, and to provide an adequate de-  
45 preciation fund, and to make any other payments which  
46 shall be required or provided for in the ordinance author-  
47 izing the issuance of said bonds.

**§8-19-6. Amount, negotiability and execution of bonds.**

1 Bonds herein provided for shall be issued in such  
2 amounts as may be necessary to provide sufficient funds to  
3 pay all costs of acquisition, construction, establishment,  
4 extension or equipment, including engineering, legal and  
5 other expenses, together with interest to a date six months  
6 subsequent to the estimated date of completion. Bonds  
7 issued under the provisions of this article are hereby de-  
8 clared to be negotiable instruments, and the same shall be  
9 executed by the proper legally constituted authorities of

10 the municipality and be sealed with the corporate seal of  
11 the municipality, and in case any of the officers whose  
12 signatures appear on the bonds or coupons shall cease to  
13 be such officers before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all  
14 purposes the same as if they had remained in office until  
15 such delivery. All signatures on the bonds or coupons and  
16 the corporate seal may be mechanically reproduced if  
17 authorized in the ordinance authorizing the issuance of  
18 the bonds. Said bonds shall not be negotiated at a price  
19 lower than a price which when computed to maturity upon  
20 standard tables of bond values will show a net return  
21 of more than eight percent per annum to the purchaser  
22 upon the amount paid therefor.

**ARTICLE 20. COMBINED WATERWORKS AND SEWERAGE SYSTEMS.**

**§8-20-5. Amount, negotiability and execution of bonds; refund of outstanding obligations or securities by sale or exchange of bonds.**

1 For the purpose of defraying the cost of acquisition,  
2 construction, establishment or equipment of any such

3 waterworks or sewerage system, or a combined water-  
4 works and sewerage system, and for the purpose of pay-  
5 ing the cost of constructing any extensions, additions,  
6 betterments or improvements to either the waterworks  
7 or sewerage system of said combined waterworks and  
8 sewerage system, or both, any such municipality may  
9 issue revenue bonds under the provisions of this article.  
10 All such bonds may be authorized, issued and sold pur-  
11 suant to ordinance in installments at different times or  
12 an entire issue or series may be sold at one time. Such  
13 bonds shall bear interest at a rate not to exceed eight  
14 percent per annum, payable semiannually, and shall ma-  
15 ture within the period of usefulness of the project in-  
16 volved, to be determined by the governing body and in  
17 any event within a period of not more than forty years.  
18 Such bonds may be in such denomination or denomina-  
19 tions, may be in such form, either coupon or registered,  
20 may carry such registration and conversion privileges,  
21 may be executed in such manner, may be payable in such  
22 medium of payment, at such place or places, may be sub-  
23 ject to such terms of redemption, with or without a pre-

24 mium, may be declared to become due before the maturity  
25 date thereof, may provide for the replacement of mutil-  
26 ated, destroyed, stolen or lost bonds, may be authenticated  
27 in such manner and upon compliance with such condi-  
28 tions, and may contain such other terms and covenants,  
29 as may be provided by ordinance of the governing body of  
30 the municipality. Notwithstanding the form or tenor  
31 thereof, and in the absence of an express recital on the  
32 face thereof that the bond is nonnegotiable, all such bonds  
33 shall at all times be, and shall be treated as, negotiable  
34 instruments for all purposes. Said bonds and the interest  
35 thereon, together with all properties and facilities of said  
36 municipality owned or used in connection with said com-  
37 bined waterworks or sewerage system, and all the moneys,  
38 revenues and other income of such municipality derived  
39 from such combined waterworks and sewerage system  
40 shall be exempt from all taxation by this state or any  
41 county, municipality, political subdivision or agency  
42 thereof. Such bonds may be sold in such manner as the  
43 governing body shall determine and if issued to bear  
44 interest at the rate of eight percent per annum shall be

45 sold for not less than par and accrued interest. If any  
46 such bonds shall be issued to bear interest at a rate of less  
47 than eight percent per annum, the minimum price at  
48 which they may be sold shall be such that the interest  
49 cost to such municipality of the proceeds of such bonds  
50 shall not exceed eight percent per annum computed to  
51 maturity according to the standard table of bond values:  
52 *Provided*, That if the governing body of the municipality  
53 determines to sell any revenue bonds of such combined  
54 waterworks and sewerage system for refunding pur-  
55 poses, such bonds shall be sold at not less than par and  
56 accrued interest and the proceeds deposited at the place  
57 of payment of the bonds, obligations or securities being  
58 refunded thereby. In case any officer whose signature ap-  
59 pears on such bonds or coupons attached thereto shall  
60 cease to be such officer before the delivery of the bonds  
61 to the purchaser, such signature shall nevertheless be  
62 valid and sufficient for all purposes, with the same effect  
63 as if he had remained in office until the delivery of the  
64 bonds. All signatures on the bonds or coupons and the  
65 corporate seal may be mechanically reproduced if

66 authorized in the ordinance authorizing the issuance of  
67 the bonds. Such bonds shall have all the qualities of  
68 negotiable instruments under the law of this state.

69 . Whenever a waterworks and sewerage system is in-  
70 cluded in a combined waterworks and sewerage system  
71 under the provisions of this article and there are un-  
72 paid and outstanding revenue bonds or any other obliga-  
73 tions or securities previously issued which are payable  
74 solely from the revenues of such waterworks or such  
75 sewerage system or any part thereof, such outstanding  
76 bonds, obligations or securities may be refunded by the  
77 issuance and sale or exchange therefor of revenue bonds  
78 to be issued under the provisions of this article. When-  
79 ever any outstanding bonds, obligations or securities pre-  
80 viously issued which are payable solely from the revenues  
81 of any waterworks or sewerage system included in a  
82 combined waterworks and sewerage system under the  
83 provisions of this article are refunded and the refunding  
84 is to be accomplished by exchange, such outstanding  
85 bonds, obligations or securities shall be surrendered and  
86 exchanged for revenue bonds of such combined water-

87 works and sewerage system of a total principal amount  
88 which shall not be more and may be less than the princi-  
89 pal amount of the bonds, obligations or securities sur-  
90 rendered and exchanged plus the interest to accrue there-  
91 on to the date of surrender and exchange, and if the re-  
92 funding is to be accomplished through the sale of revenue  
93 bonds of such combined waterworks and sewerage sys-  
94 tem the total principal amount of such revenue bonds  
95 which may be sold for refunding purposes shall not ex-  
96 ceed the principal amount of the bonds, obligations or  
97 securities being refunded plus the interest to accrue  
98 thereon to the retirement date or the next succeeding  
99 interest payment date, whichever date may be earlier.  
100 Provision may be made that each bond to be exchanged  
101 for refunding bonds shall be kept intact and shall not be  
102 canceled or destroyed until the refunding bonds, and  
103 interest thereon, have been finally paid and discharged;  
104 but each such bond shall be stamped with a legend to  
105 the effect that the same has been refunded pursuant to  
106 the provisions of this article.

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

*William Tompar*  
Chairman Senate Committee

*Clayton L. Davidson*  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

*Harmon Meyer*  
Clerk of the Senate

*A. Blankenship*  
Clerk of the House of Delegates

*Langdon G. Jackson*  
President of the Senate

*Irwin F. Biaiskey*  
Speaker House of Delegates

The within *approved* this the *17th*  
day of *February*, 1970.

*Arch A. Shaare Jr.*  
Governor



PRESENTED TO THE  
GOVERNOR

Date 2/17/70

Time 2:15 p.m.