WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1970

ENROLLED

SENATE BILL NO. 15

(By Mr. R. Montagna)

PASSED February 27, 1970

In Effect from Passage

FILED IN THE OFFICE
JOHN D. COOKELLER, IV
SECRETARY OF STATE
THIS DATE 2-18-70
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 than eight percent per annum, payable semiannually, or at shorter intervals, and shall mature at such time or times, not exceeding forty years, as may be determined by the ordinance or ordinances authorizing the issuance of such bonds. Such bonds may be made redeemable before maturity, at the option of the municipality or municipalities issuing the same, to be exercised by said board, at not more than the par value thereof, and at a premium of not more than five percent, under such terms and conditions as may be fixed by the ordinance or ordinances authorizing the issuance of the bonds.

13 The principal and interest of the bonds may be made
payable in any lawful medium. Such ordinance or ordinances shall determine the form of the bonds, including the interest coupons to be attached thereto, and shall fix the denomination or denominations of such bonds, and the place or places of the payment of the principal and interest thereof, which may be at any banking institution or trust company within or without the state. When two or more municipalities take joint action under the provisions of this article, the bonds shall be issued by the participating municipalities either as separate or joint bonds, as the governing bodies thereof may agree, and when separate bonds are issued, the amount of the bonds to be issued by each participating municipality shall be fixed by agreement of the governing bodies of the participating municipalities set forth in the ordinance of each participating municipality authorizing the issuance of such bonds. The bonds shall contain a statement on their face that the municipality or municipalities issuing the same shall not be obligated to pay the same, or the interest thereon, except from the special fund derived from the net revenue of the works,
or the pro rata part thereof, as provided for in section eleven hereof. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of negotiable instruments, under the Uniform Commercial Code of this state. Provision may be made for the registration of any of the bonds in the name of the owner as to principal alone; but bonds shall be executed in such manner as the governing body or bodies may direct. The bonds shall be sold by the governing body or bodies in such manner as may be determined to be for the best interest of the municipality or municipalities: Provided, That said bonds shall not be negotiated at a price lower than a price which when computed to maturity upon standard tables of bond values will show a net return of more than eight percent per annum to the purchaser upon the amount paid therefor. Any surplus of the bond proceeds over and above the cost of the project shall be paid into the sinking fund hereinafter provided for. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the project, additional bonds may in like manner
be issued to provide the amount of such deficit, and,
unless otherwise provided in the ordinance or ordinances
authorizing the issuance of the bonds first issued, or
in the trust indenture hereinafter authorized, shall be
deemed to be of same issue, and shall be entitled to
payment without preference or priority of the bonds
first issued; and if any preference or priority of the
bonds first issued is provided for in the ordinance or
ordinances authorizing the issuance of the bonds first
issued or in said trust indenture, such preference or
priority shall not extend to an amount exceeding ten
percent of the original issue. Prior to the preparation
of the definite bonds, interim certificates may, under like
restrictions, be issued with or without coupons exchange-
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.


1 Every municipality is hereby empowered and author-
2 ized to issue its bonds for any improvements under the
provisions of this article in anticipation of special assessments to be made upon the property abutting upon the streets, alleys, public ways or easements, or sewer right-of-ways or easements, so improved, and such bonds may be in such an amount as will be sufficient to pay the entire estimated cost and expense of such improvements for which such special assessments are levied. Such municipality is also authorized to sell such bonds, but the price for which they are sold shall not be below the par value of such bonds. Such bonds shall be payable in not to exceed ten years from the date of the issuance thereof, and shall bear interest at not to exceed eight percent per annum, payable annually; and in the issuance and sale of such bonds, the municipality shall be governed by all the restrictions and limitations of the constitution of this state, and by the restrictions and limitations of the statutes of this state with respect to the issuance and sale of other bonds, so far as they are not in conflict with the provisions of this article; and the assessments shall be collected as provided in sections ten and twelve of this article, and as paid and collected shall be applied to the
liquidation of such bonds and the interest thereon; and if by reason of penalties collected with delinquent assessments there be any balance after the payment of such bonds and all accrued interest and cost, such balance shall be turned into the municipal treasury to the credit of the interest and sinking fund of the municipality: Provided, That no such municipality shall by sale or issuance of such bonds cause the aggregate of its indebtedness of every kind whatsoever to exceed five percent of the value of taxable property therein: Provided, however, That nothing herein contained shall be construed as authorizing any such municipality to become indebted in any other manner or for any other purpose, to an amount, including its existing indebtedness, in the aggregate exceeding two and one-half percent of the value of the taxable property therein, as provided in section three, article one, chapter thirteen of this code, except for the purpose of grading, regrading, paving, repaving, surfacing, resurfacing, curbing, recurbing, building or renewing sidewalks, or constructing sewers or otherwise improving or reimproving the streets, alleys, public ways or easements,
or sewer right-of-ways or easements, of such municipality,
as provided for in this article; nor shall such municipality
make such issuance and sale without at the same time
providing for the collection of a direct annual tax suffi-
cient to pay annually the interest on such debt and the
principal thereof within and not exceeding ten years.
All of the assessments, interest and penalties collected
from the abutting property owners on account of the
grading, regrading, paving, repaving, surfacing, resurfac-
ing, curbing, recuring, building or renewing sidewalks,
or constructing sewers or otherwise improving or re-
improving the streets, alleys, public ways or easements,
or sewer right-of-ways or easements, of any such mu-
nicipality, under the provisions of this article, shall an-
ually be applied to the annual tax required to pay the
interest on such debt and such principal within and not
exceeding ten years; and in the event that the assess-
ments, interest and penalties so collected do not amount
to a sum sufficient to pay annually the interest on such
debt and the principal thereof within and not exceeding
ten years, then the governing body of such municipality
shall collect so much of such levy as will pay annually
the interest on such debt and the principal thereof within
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.

Whenever a municipality shall, under the provisions of
this article, determine to acquire, by purchase or other-
wise, construct, establish, extend or equip a waterworks
system, it shall cause an estimate to be made of the cost
thereof, and shall, by ordinance, provide for the issuance
of revenue bonds under the provisions of this article,
which ordinance shall set forth a brief description of the
contemplated undertaking, the estimated cost thereof,
the amount, rate or rates of interest, the time and place of
payment, and other details in connection with the issu-
ance of the bonds. Such bonds shall be in such form and
shall be negotiated in such manner and upon such terms
as the governing body of such municipality may by ordi-
nance specify. All such bonds and the interest thereon,
and all properties and revenues and income derived from
such waterworks system, shall be exempt from all taxation by this state, or any county, municipality, political subdivision or agency thereof. Such bonds shall bear interest at not more than eight percent per annum, payable semiannually, and shall be payable at such times, not exceeding forty years from their date, and at such place or places, within or without the state, as shall be prescribed in the ordinance providing for their issuance. Such ordinance shall also declare that a statutory mortgage lien shall exist upon the property so to be acquired, constructed, established, extended or equipped, fix minimum rates or charges for water to be collected prior to the payment of all of said bonds and shall pledge the revenues derived from the waterworks system for the purpose of paying such bonds and interest thereon, which pledge shall definitely fix and determine the amount of revenues which shall be necessary to be set apart and applied to the payment of the principal of and interest upon the bonds and the proportion of the balance of such revenues which are to be set aside as a proper and adequate depreciation account, and the remainder shall be set aside for the reason-
able and proper maintenance and operation thereof. The rates or charges to be charged for the services from such waterworks system shall be sufficient at all times to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same become due, and reasonable reserves therefor, and to provide for the repair, maintenance and operation of the waterworks system, and to provide an adequate depreciation fund, and to make any other payments which shall be required or provided for in the ordinance authorizing the issuance of said bonds.

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

Bonds herein provided for shall be issued in such amounts as may be necessary to provide sufficient funds to pay all costs of acquisition, construction, establishment, extension or equipment, including engineering, legal and other expenses, together with interest to a date six months subsequent to the estimated date of completion. Bonds issued under the provisions of this article are hereby declared to be negotiable instruments, and the same shall be executed by the proper legally constituted authorities of
the municipality and be sealed with the corporate seal of
the municipality, and in case any of the officers whose
signatures appear on the bonds or coupons shall cease to
be such officers before delivery of such bonds, such signa-
tures shall nevertheless be valid and sufficient for all
purposes the same as if they had remained in office until
such delivery. All signatures on the bonds or coupons and
the corporate seal may be mechanically reproduced if
authorized in the ordinance authorizing the issuance of
the bonds. Said bonds shall not be negotiated at a price
lower than a price which when computed to maturity up-
on standard tables of bond values will show a net return
of more than eight percent per annum to the purchaser
upon the amount paid therefor.

ARTICLE 20. COMBINED WATERWORKS AND SEWERAGE SYS-
TEMS.

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

For the purpose of defraying the cost of acquisition,
waterworks or sewerage system, or a combined water-
works and sewerage system, and for the purpose of pay-
ing the cost of constructing any extensions, additions,
betterments or improvements to either the waterworks
or sewerage system of said combined waterworks and
sewerage system, or both, any such municipality may
issue revenue bonds under the provisions of this article.
All such bonds may be authorized, issued and sold pur-
suant to ordinance in installments at different times or
an entire issue or series may be sold at one time. Such
bonds shall bear interest at a rate not to exceed eight
percent per annum, payable semiannually, and shall ma-
ture within the period of usefulness of the project in-
volved, to be determined by the governing body and in
any event within a period of not more than forty years.
Such bonds may be in such denomination or denomina-
tions, may be in such form, either coupon or registered,
may carry such registration and conversion privileges,
may be executed in such manner, may be payable in such
medium of payment, at such place or places, may be sub-
ject to such terms of redemption, with or without a pre-
mium, may be declared to become due before the maturity
date thereof, may provide for the replacement of mutil-
ated, destroyed, stolen or lost bonds, may be authenticated
in such manner and upon compliance with such condi-
tions, and may contain such other terms and covenants,
as may be provided by ordinance of the governing body of
the municipality. Notwithstanding the form or tenor
thereof, and in the absence of an express recital on the
face thereof that the bond is nonnegotiable, all such bonds
shall at all times be, and shall be treated as, negotiable
instruments for all purposes. Said bonds and the interest
thereon, together with all properties and facilities of said
municipality owned or used in connection with said com-
bined waterworks or sewerage system, and all the moneys,
revenues and other income of such municipality derived
from such combined waterworks and sewerage system
shall be exempt from all taxation by this state or any
county, municipality, political subdivision or agency
thereof. Such bonds may be sold in such manner as the
governing body shall determine and if issued to bear
interest at the rate of eight percent per annum shall be
sold for not less than par and accrued interest. If any such bonds shall be issued to bear interest at a rate of less than eight percent per annum, the minimum price at which they may be sold shall be such that the interest cost to such municipality of the proceeds of such bonds shall not exceed eight percent per annum computed to maturity according to the standard table of bond values: Provided, That if the governing body of the municipality determines to sell any revenue bonds of such combined waterworks and sewerage system for refunding purposes, such bonds shall be sold at not less than par and accrued interest and the proceeds deposited at the place of payment of the bonds, obligations or securities being refunded thereby. In case any officer whose signature appears on such bonds or coupons attached thereto shall cease to be such officer before the delivery of the bonds to the purchaser, such signature shall nevertheless be valid and sufficient for all purposes, with the same effect as if he had remained in office until the delivery of the bonds. All signatures on the bonds or coupons and the corporate seal may be mechanically reproduced if
authorized in the ordinance authorizing the issuance of the bonds. Such bonds shall have all the qualities of negotiable instruments under the law of this state.

Whenever a waterworks and sewerage system is included in a combined waterworks and sewerage system under the provisions of this article and there are unpaid and outstanding revenue bonds or any other obligations or securities previously issued which are payable solely from the revenues of such waterworks or such sewerage system or any part thereof, such outstanding bonds, obligations or securities may be refunded by the issuance and sale or exchange therefor of revenue bonds to be issued under the provisions of this article. Whenever any outstanding bonds, obligations or securities previously issued which are payable solely from the revenues of any water-works or sewerage system included in a combined waterworks and sewerage system under the provisions of this article are refunded and the refunding is to be accomplished by exchange, such outstanding bonds, obligations or securities shall be surrendered and exchanged for revenue bonds of such combined water-
works and sewerage system of a total principal amount which shall not be more and may be less than the principal amount of the bonds, obligations or securities surrendered and exchanged plus the interest to accrue thereon to the date of surrender and exchange, and if the refunding is to be accomplished through the sale of revenue bonds of such combined waterworks and sewerage system the total principal amount of such revenue bonds which may be sold for refunding purposes shall not exceed the principal amount of the bonds, obligations or securities being refunded plus the interest to accrue thereon to the retirement date or the next succeeding interest payment date, whichever date may be earlier. Provision may be made that each bond to be exchanged for refunding bonds shall be kept intact and shall not be canceled or destroyed until the refunding bonds, and interest thereon, have been finally paid and discharged; but each such bond shall be stamped with a legend to the effect that the same has been refunded pursuant to the provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Lumpar
Chairman Senate Committee

Clayton E. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage.

J. T. Hogg
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

Lloyd G. Jackson
President of the Senate

Jim F. Beckley
Speaker House of Delegates

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

Archibald S. Davis Jr.
Governor
PRESENTED TO THE
GOVERNOR

Date 2/17/70
Time 2:15 p.m.