

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973



ENROLLED

HOUSE BILL No. 1254

(By Mr. Patten)



PASSED April 14, 1973

In Effect thirty days from Passage



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FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 5/4/73

1254

ENROLLED

House Bill No. 1254

(By MR. POTTER)

[Passed April 14, 1973; in effect ninety days from passage.]

AN ACT to amend and reenact sections seven, ten and seventeen, article sixteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the establishment of reserves out of the proceeds from the sale of revenue bonds.

Be it enacted by the Legislature of West Virginia:

That sections seven, ten and seventeen, article sixteen, 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.

§8-16-7. Ordinance for construction, etc., of works.

1 Before any municipality or municipalities shall, under the
2 provisions of this article, construct, reconstruct, establish,
3 acquire, improve, renovate, extend, enlarge, increase, equip or
4 repair (including replacements) any municipal public works,
5 the governing body, or the governing body of each partici-
6 pating municipality, shall enact an ordinance or ordinances,
7 which shall (a) set forth a brief and general description of the
8 works, including a reference to the preliminary report or
9 plans and specifications which shall theretofore have been
10 prepared; (b) set forth the estimated cost thereof; (c)
11 order the construction, reconstruction, establishment, acquisi-

tion, improvement, renovation, extension, enlargement, increase, equipment or repair (including replacements) of such works; (d) direct that municipal revenue bonds be issued pursuant to this article, in such amount as may be found necessary to pay the cost of the works; (e) contain such provisions as the governing body determines are necessary or desirable with regard to the establishment and setting aside of reserves from the proceeds of such revenue bonds or from the revenues of said works, or from both, and the administration and disposition thereof; and (f) contain such other provisions as may be necessary or proper in the premises. When two or more municipalities take joint action under the provisions of this article, a certified copy of each such ordinance shall be filed in the office of the clerk of the county court of the county or counties in which the municipalities are located and in the office of the state tax commissioner, and when any such municipality is located in more than one county, the filing for that municipality shall be in the office of the clerk of the county court in which the major portion of the territory of such municipality is located. Before any such ordinance shall become effective, an abstract of the ordinance, determined by the governing body or each governing body, as the case may be, to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such municipality or each such municipality, as the case may be. The notice to be published with said abstract of the ordinance shall specify a date, time and place for a public hearing, the date being not less than ten days after the first publication of said abstract and notice at which time and place all parties and interests may appear before the governing body of the municipality or each such municipality and may be heard as to whether or not said ordinance shall be put into effect, and said notice shall also identify the office in which a certified copy of such ordinance shall be on file for review by interested persons during the office hours of such office. At such hearing all objections and suggestions shall be heard and the governing body or each such governing body shall take such

53 action as it or they shall deem proper in the premises: *Provided,*
54 That if at any such hearing written protest is filed by thirty per-
55 cent or more of the freeholders of the municipality for which
56 the hearing is held, then the governing body of said municipality
57 shall not take further action unless four fifths of the members of
58 said governing body assent thereto: *Provided, however,* That in
59 case written protest is filed by thirty percent or more of the
60 freeholders as herein provided, any such governing body shall
61 have authority to appoint a committee to consist of one pro-
62 ponent, one opponent, and the third to be selected by these two,
63 to determine whether or not thirty percent of the freeholders
64 have in fact protested and said committee shall report its
65 findings to any such governing body.

§8-16-10. Items of expense included in cost of works.

1 The cost of the works shall be deemed to include the cost of
2 construction, reconstruction, establishment or acquisition there-
3 of, the cost of all land, rights, easements, rights-of-way, fran-
4 chises and other property, real or personal, deemed necessary,
5 appropriate, useful, convenient or incidental therefor or there-
6 to and for the improvement, renovation, extension, enlarge-
7 ment, increase, equipment or repair (including replacements)
8 determined upon; the interest upon bonds prior to and during
9 the project and for six months after completion thereof; the
10 amount of any reserve funded from the proceeds of bonds;
11 engineering and legal expenses; expenses for estimates of cost
12 and of revenues; expenses for plans, specifications and sur-
13 veys; other expenses necessary or incident to determining the
14 feasibility or practicability of the enterprise; administrative ex-
15 penses; and such other expenses as may be necessary or inci-
16 dent to the financing herein authorized, the project, the plac-
17 ing of the works in operation and the performance of the things
18 herein required or permitted in connection with any thereof.

**§8-16-17. Sinking fund; sinking fund commission; transfer of funds;
purchase of outstanding bonds.**

1 Before the issuance of any such bonds, the governing body
2 or bodies shall, by ordinance or ordinances, provide for a sink-
3 ing fund for the payment of the bonds and the interest there-
4 on, and the payment of the charges of banking institutions or

5 trust companies for making payment of such bonds and inter-
6 est, out of the net revenues of said works, and shall set aside
7 and pledge a sufficient amount of the net revenues of the works
8 hereby defined to mean the revenues of the works remaining
9 after the payment of the reasonable expenses of repair (includ-
10 ing replacements), maintenance and operation, such amount
11 to be paid by the board into the sinking fund at intervals, to
12 be determined by ordinance or ordinances adopted prior to the
13 issuance of the bonds, for (a) the interest upon such bonds as
14 such interest shall fall due; (b) the necessary fiscal agency
15 charges for paying bonds and interest; (c) the payment of the
16 bonds as they fall due, or if all bonds mature at one time, the
17 proper maintenance of a sinking fund sufficient for the pay-
18 ment thereof at such time; and (d) a margin for safety and for
19 the payment of premium upon bonds retired by call or pur-
20 chase as herein provided, which margin, together with unused
21 surplus of such margin carried forward from the preceding
22 year and the amounts set aside as reserves out of the proceeds
23 from the sale of the bonds, or from the revenues of said works,
24 or from both, shall equal ten percent of all other amounts so
25 required to be paid into the sinking fund. Such required pay-
26 ments shall constitute a first charge upon all the net revenues
27 of the works. Prior to the issuance of the bonds, the board
28 may, by ordinance or ordinances, be given the right to use or
29 direct the trustee or the state sinking fund commission to use
30 such sinking fund, or any part thereof, in the purchase of any
31 of the outstanding bonds payable therefrom, at the market
32 prices thereof, but not exceeding the price, if any, at which
33 the same shall in the same year be payable or redeemable, and
34 all bonds redeemed or purchased shall forthwith be cancelled,
35 and shall not again be issued. After the payments into the
36 sinking fund as herein required and after reserving an amount
37 deemed by the board sufficient for repair (including replace-
38 ments), maintenance and operation for an ensuing period of
39 not less than twelve months and for depreciation, the board
40 may at any time in its discretion transfer all or any part of the
41 balance of the net revenues into the sinking fund or into a
42 fund for improvement, renovation, extension, enlargement, in-
43 crease or equipment for or to the works, or the governing body
44 or bodies may, notwithstanding the provisions of section twen-

45 ty, article thirteen of this chapter, transfer all or any part of
46 the balance of the net revenues to the general or any special
47 fund of the municipality or municipalities and use such reve-
48 nues for any purpose for which such general or special fund
49 may be expended.

50 All amounts for the sinking fund and interest, as and when
51 set apart for the payment of same, shall be remitted to the
52 state sinking fund commission at such periods as shall be de-
53 signated in the ordinance or ordinances, but in any event at
54 least thirty days previous to the time interest or principal pay-
55 ments become due, to be retained and paid out by said com-
56 mission consistent with the provisions of this article and the
57 ordinance or ordinances pursuant to which such bonds have
58 been issued. The state sinking fund commission is hereby au-
59 thorized to act as fiscal agent for the administration of such
60 sinking fund under any ordinance or ordinances passed or
61 adopted pursuant to the provisions of this article and shall
62 invest all sinking funds as provided by general law.

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

W. Darrel Darby
Chairman Senate Committee

Clarence C. Christensen Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard W. Carson
Clerk of the Senate

C. A. Blankschhip
Clerk of the House of Delegates

H. B. Rutherford
President of the Senate

Lewis J. McManus
Speaker House of Delegates

The within approved this the 24th
April, 1973.
day of _____

Arch A. Shaue Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 4/24/73

Time 2:34 p.m.