WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

ENROLLED
Committee Substitute
for
SENATE BILL NO. 388

(By Mr. Hatfield, Mr. Jones, original sponsors)

PASSED March 8, 1975

In Effect ninety days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 388
(By MR. HATFIELD and MR. JONES, original sponsors)

[Passed March 8, 1975; in effect ninety days from passage.]

AN ACT to amend chapter twenty-nine 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 creating a West Virginia railroad maintenance authority; setting forth purpose and duty of the authority, membership and term of authority members; granting power to issue bonds; prescribing function, duty, power and obligation of authority; establishment of railroad maintenance authority fund; authorizing collection of rates and rentals from railroad projects; setting forth unlawful acts and penalty.

Be it enacted by the Legislature of West Virginia:
That chapter twenty-nine 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. WEST VIRGINIA RAILROAD MAINTENANCE AUTHORITY.

1 This article shall be known and cited as the "West Virginia Railroad Maintenance Authority Act."

§29-18-2. Declaration of policy and responsibility; purpose and intent of article; findings.
1 It is hereby declared to be the public policy of the state of West Virginia and a responsibility of the state of
West Virginia, to facilitate railroad transportation and commerce within the state by exercising those powers of the state necessary to qualify for rail services continuation subsidies pursuant to the provisions of the federal Regional Rail Reorganization Act of one thousand nine hundred seventy-three and any amendment thereto and any rules or regulations promulgated thereunder.

The Legislature finds and hereby declares that this responsibility of the state cannot be effectively met without the establishment, funding, construction, reconstruction, acquisition, repair, replacement, operation and maintenance of railroads and railroad projects.


As used in this article unless the context clearly requires a different meaning:

1. "Authority" means the West Virginia railroad maintenance authority created by this article, the duties, powers, responsibilities and functions of which are specified in this article.

2. "Bond" or "railroad maintenance authority bond" means a revenue bond or rate issued by the railroad maintenance authority to effectuate the intents and purposes of this article.

3. "Railroad" means a common carrier by railroad as defined in section 1 (3) of Part I of the Interstate Commerce Act (49 U.S.C. §1).

4. "Owner" means and includes all individuals, cooperatives, partnerships, associations, corporations, companies, transportation companies, public service corporations, the United States or any agency or instrumentality thereof, common carriers by rail and railroad companies having any title or interest in any rail properties authorized to be acquired, leased or used by this article.

5. "Income" means and includes all money accruing to the authority from any source.

6. "Person" means individuals, corporations, partnerships or foreign and domestic associations, including railroads.

7. "Rail properties" means assets or rights owned, leased, or otherwise controlled by a railroad or other per-
son which are used, or useful, in rail transportation serv-

ice: Provided, That rail properties does not include any
properties owned, leased, or otherwise controlled by a
railroad not in reorganization, unless it consents to such
properties' inclusion in the particular transaction.

(8) "Rail service" means both freight and passenger
service.

(9) "Railroad project" means the initiation, acquisi-
tion, construction, maintenance, repair, equipping or op-
eration of rail properties or rail service, or the provi-
sions of loans or grants to or with government agencies,
or to persons for such purposes, by the authority.

§29-18-4. West Virginia railroad maintenance authority cre-
ated; organization of authority; appointment of
members; their term of office, compensation and
expenses; director of authority.

There is hereby created the West Virginia railroad
maintenance authority. The authority is a governmental
instrumentality of the state and a body corporate. The
exercise by the authority of the powers conferred by this
article and the carrying out of its purposes and duties
shall be deemed and held to be, and are hereby deter-
mined to be, essential governmental functions and for a
public purpose.

The authority shall consist of seven members. The
governor shall be a member ex officio. The other six
members shall be appointed by the governor, by and with
the advice and consent of the Senate, for a term of six
years. Of the members of the authority first appointed, two
shall be appointed for a term ending on the thirtieth day of
June, one thousand nine hundred seventy-seven, two shall
be appointed for a term ending two years thereafter and
two shall be appointed for a term ending four years there-
after. A person appointed to fill a vacancy occurring
prior to the expiration of the term for which his prede-
cessor was appointed shall be appointed only for the
remainder of such term. Each authority member shall
serve until the appointment and qualification of his
successor. No more than three of the appointed authority
members shall at any one time belong to the same poli-
Appointed authority members may be reappointed to serve additional terms.

All members of the authority shall be citizens of the state. Each appointed member of the board, before entering upon his duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of twenty-five thousand dollars in the manner provided in article two, chapter six of this code. The governor may remove any authority member for cause as provided in article six, chapter six of this code.

Annually the authority shall elect one of its appointed members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer, who need not be a member of the authority. Four members of the authority shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by vote of the authority. No vacancy in the membership of the authority shall impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the authority. The person appointed as secretary-treasurer, including an authority member if he is so appointed, shall give bond in the sum of fifty thousand dollars in the manner provided in article two, chapter six of this code.

The governor shall not receive any compensation for serving as an authority member. Each of the six appointed members of the authority shall receive fifty dollars for each day or substantial part thereof actually spent in attending meetings of the board or in discharging or carrying out his duties and work as a member of the board. Each of the six appointed members shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of such authority. All such compensation and expenses incurred shall be payable solely from funds of the authority or from funds appropriated for such purpose by the Legislature and no liability or obligation shall be incurred by the authority beyond the extent to which moneys are available from funds of the authority or from such appropriations.
§29-18-5. Authority may construct, maintain, etc., railroad maintenance projects.

To accomplish the public policies and purposes and to meet the responsibility of the state as set forth in this article, the West Virginia railroad maintenance authority may carry out railroad projects or cause railroad projects to be carried out pursuant to a lease, sublease or agreement with any person or governmental agency; may make loans and grants to or with governmental agencies or to persons for railroad projects; and may issue railroad authority bonds of this state; payable solely from revenues, to pay the cost of such projects. A railroad project shall not be undertaken unless it has been determined by the authority to be consistent with any applicable comprehensive plan for railroad projects approved by the authority. Any resolution of the authority authorizing a railroad project shall include a finding by the authority that such determinations have been made.


The West Virginia railroad maintenance authority is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose.

(a) The authority shall have the power and capacity to:

1. Adopt, and from time to time, amend and repeal bylaws necessary and proper for the regulation of its affairs and the conduct of its business and rules and regulations to implement and make effective its powers and duties, such rules and regulations to be promulgated in accordance with the provisions of chapter twenty-nine-a of this code.
2. Adopt an official seal.
3. Maintain a principal office and, if necessary, regional suboffices at locations properly designated or provided.
18. (4) Sue and be sued in its own name and plead and
19 be impleaded in its own name, and particularly to en-
20 force the obligations and covenants made under sec-
21 tions ten, eleven and sixteen of this article. Any actions
22 against the authority shall be brought in the circuit
23 court of Kanawha county in which the principal office
24 of the authority shall be located.
25. (5) Make loans and grants to governmental agencies
26 and persons for carrying out railroad projects by
27 any such governmental agency or person and, in ac-
28 cordance with chapter twenty-nine-a of this code, adopt
29 rules and procedures for making such loans and
30 grants.
31. (6) Acquire, construct, reconstruct, enlarge, improve,
32 furnish, equip, maintain, repair, operate, lease or rent
33 to, or contract for operation by a governmental agency
34 or person, railroad projects, and, in accordance with
35 chapter twenty-nine-a of this code, adopt rules and reg-
36 ulations for the use of such projects.
37. (7) Make available the use or services of any rail-
38 road project to one or more persons, one or more gov-
39 ernmental agencies, or any combination thereof.
40. (8) Issue railroad maintenance authority bonds and
41 notes and refunding bonds of the state, payable solely
42 from revenues as provided in section ten of this article
43 unless the bonds are refunded by refunding bonds,
44 for the purpose of paying any part of the cost of
45 one or more railroad projects or parts thereof.
46. (9) Acquire by gift or purchase, hold and dispose
47 of real and personal property in the exercise of its
48 powers and the performance of its duties as set forth
49 in this article.
50. (10) Acquire in the name of the state, by purchase or
51 otherwise, on such terms and in such manner as it deems
52 proper, or by the exercise of the right of eminent do-
53 main in the manner provided in chapter fifty-four of
54 this code, rail properties and appurtenant rights and
55 interests necessary for carrying out railroad projects.
56. (11) Make and enter into all contracts and agree-
57 ments and execute all instruments necessary or inci-
78  dental to the performance of its duties and the execution
79 of its powers. When the cost under any such contract
80 or agreement, other than compensation for personal serv-
81 ices, involves an expenditure of more than two thousand
82 dollars, the authority shall make a written contract
83 with the lowest responsible bidder after public notice
84 published as a Class II legal advertisement in compli-
85 ance with the provisions of article three, chapter fifty-
86 nine of this code, the publication area for such pub-
87 lication to be the county wherein the work is to be per-
88 formed or which is affected by the contract, which notice
89 shall state the general character of the work and the
90 general character of the materials to be furnished, the
91 place where plans and specifications therefor may be
92 examined and the time and place of receiving bids, but
93 a contract or lease for the operation of a railroad project
94 constructed and owned by the authority or an agree-
95 ment for cooperation in the acquisition or construction of
96 a railroad project pursuant to section sixteen of this
97 article is not subject to the foregoing requirements and
98 the authority may enter into such contract or lease or
99 such agreement pursuant to negotiation and upon such
100 terms and conditions and for such period as it finds
101 to be reasonable and proper under the circumstances
102 and in the best interests of proper operation or of
103 efficient acquisition or construction of such railroad
104 project. The authority may reject any and all bids. A
105 bond with good and sufficient surety, approved by the
106 authority, shall be required of all contractors in an
107 amount equal to at least fifty percent of the contract
108 price, conditioned upon the faithful performance of the
109 contract.
110  (12) Appoint a director and employ managers, super-
111 intendents and other employees and retain or contract
112 with consulting engineers, financial consultants, account-
113 ants, attorneys and such other consultants and inde-
114 pendent contractors as are necessary in its judgment to
115 carry out the provisions of this article, and fix the com-
116 pensation or fees thereof. All expenses thereof shall
117 be payable from the proceeds of railroad maintenance
118 authority revenue bonds or notes issued by the authority,
(13) Receive and accept from any state or federal agency, grants for or in aid of the construction of any railroad project or for research and development with respect to railroads and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions are made.

(14) Engage in research and development with respect to railroads.

(15) Purchase fire and extended coverage and liability insurance for any railroad project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability, if any, for damage to property or injury to or death of persons arising from its operations and be a member of, and to participate in, the state workmen's compensation program.

(16) Charge, alter and collect rates, rentals and other charges for the use or services of any railroad project as provided in this article.

(17) Do all acts necessary and proper to carry out the powers expressly granted to the authority in this article.

(b) In addition, the authority shall have the power to:

(1) Acquire rail properties both within and not within the jurisdiction of the interstate commerce commission and rail properties within the purview of the federal Regional Rail Reorganization Act of 1973, any amendments to it and any other relevant federal legislation.

(2) Enter into agreements with owners of rail properties for the acquisition of rail properties or use or both of rail properties upon such terms, conditions, rates or rentals as can best effectuate the purposes of this article.
(3) Acquire rail properties and other property of a railroad in concert with another state or states as is necessary to insure continued rail service in this state.

(4) Establish a state plan for rail transportation and local rail services.

(5) Administer and coordinate such state plan.

(6) Provide in such state plan for the equitable distribution of federal rail service continuation subsidies among state, local and regional transportation authorities.

(7) Promote, supervise and support safe, adequate and efficient rail services.

(8) Employ sufficient trained and qualified personnel for these purposes.

(9) Maintain adequate programs of investigation, research, promotion and development in connection with such purposes and to provide for public participation therein.

(10) Provide satisfactory assurances on behalf of the state that fiscal control and fund accounting procedures will be adopted by the state necessary to assure proper disbursement of and accounting for federal funds paid to the state as rail service continuation subsidies.

(11) Comply with the regulations of the secretary of transportation of the United States department of transportation affecting federal rail service continuation programs.

(12) Do all things otherwise necessary to maximize federal assistance to the state under Title IV of the federal Regional Rail Reorganization Act of 1973 and to qualify for rail service continuation subsidies pursuant to the federal Regional Rail Reorganization Act of 1973.


(a) The authority may sell, transfer or lease all, or any part, of the rail properties and other property acquired under the provisions of this article to any responsible person, firm or corporation for continued operation of a railroad or other public purpose: Provided, That approval for the continued operation or other public purpose, is granted by the interstate commerce commission of the United States, whenever approval is required.
The sale, transfer or lease shall be for a price and subject to any further terms and conditions which the authority feels are necessary and appropriate to effectuate the purposes of this article.

(b) After acquiring any railroad lines within the state, the authority shall assist any responsible person, firm or corporation to secure, as promptly as possible, any order or certificate required by the interstate commerce commission for the performance of railroad service. The authority shall also give any assurances or guarantees which are necessary or desirable to carry out the purposes of this article.

(c) The authority may take whatever steps are necessary in order to determine the absolute fee simple title ownership of all rail properties of any railroad within the state. The determination may include the status of the rail properties with respect to easements, rights-of-way, leases, reversionary rights, fee simple title ownership and any and all related title matters. The authority may retain attorneys, experts or other assistants, and issue any contracts as are necessary to make the title determination.

(d) All rail properties within the state offered for sale by any railway corporation after the date of enactment of this article shall be offered for sale to the state in the first instance.

(e) The authority may cooperate with other states in connection with the purchase of any rail properties within this state. The authority may also acquire railroad rights in other states and rail properties lying in other states in order to carry out the intentions and purposes of this article. In carrying out the powers and duties conferred by this article, the authority may enter into general contractual arrangements, including joint purchasing and leasing of rail properties with other states.

(f) In weighing the varied interests of the residents of this state, the authority shall give consideration to the individual interest of any county or municipality expressing a desire to acquire a portion, or all, of the abandoned real estate located within its jurisdiction. The authority may exercise its powers under this article to
acquire the abandoned property for subsequent convey-
ance to the county or municipality.

(g) The authority may utilize federal funds, grants, 
gifts or donations which are available and any sums 
that are appropriated in carrying out the purposes of 
this article. The authority may also apply for discre-
tionary or other funds available under the provisions of 
the federal Regional Rail Reorganization Act of 1973 or 
other federal programs.

(h) The authority may apply for an acquisition and 
modernization loan, or a guarantee of a loan, pursuant 
to Section 403 of the federal Regional Rail Reorganiza-
tion Act of 1973 or any other federal programs, within 
the limit of funds appropriated for those purposes.

(i) The authority is authorized to purchase any rail-
road rolling stock, equipment and machinery necessary 
for the operation and maintenance of any rail properties 
purchased by it on behalf of the state, with any funds 
made available for this purpose. The authority may also 
acquire and have available, a pool of equipment and 
machinery which may be utilized by the operators of 
the rail properties for the purpose of track maintenance 
and other related railroad activities, upon terms and 
conditions determined by the authority.

(j) The authority may contract for the rebuilding 
or relocation of any rail properties acquired pursuant 
to this article, within the provisions of the federal Re-
gional Rail Reorganization Act of 1973 or any other 
applicable legislation. The authority may also spend 
any sums appropriated, as well as any other available 
funds, for the modernization, rebuilding and relocation 
of any rail properties owned by the state or by a private 
carrier. The authority may do any maintenance on any 
rail properties owned by the state as is necessary in the 
public interest.

(k) The authority may contract with any domestic 
or foreign person, firm, corporation, agency or govern-
ment to provide, maintain or improve rail transportation 
service on the rail properties acquired by the state under 
this article.
Whenever the authority determines that any rail properties acquired by the state are no longer needed for railroad purposes, it may, with the permission of the governor, permanently or temporarily transfer the rail properties to any other state department or agency or political subdivision of the state, which shall utilize the properties for a public purpose. Whenever more than one department or agency or political subdivision wishes to utilize the property, the authority shall resolve such a conflict and make a prompt determination of the reasonable and proper order of priority, taking into consideration any applicable state plans, policies or objectives. If no state department or agency or political subdivision wants the properties, the authority may sell them, with the proceeds deposited to the special railroad fund established by this article. A public hearing is required prior to the transfer or sale of any rail properties by the authority.


There is hereby created in the state treasury a West Virginia railroad maintenance authority fund. The authority shall deposit proceeds derived from action taken pursuant to this article and shall be the authority to use moneys in such fund to effectuate the provisions and purposes of this article.


The authority may expend, out of any funds available for the purpose, such moneys as are necessary for the study of any proposed railroad project and may use its engineering and other forces, including consulting engineers for the purpose of effecting such study. All such expenses incurred by such study and engineering shall be paid from the funds established in section eight of this article.

§29-18-10. Authority empowered to issue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.

The authority is hereby empowered to raise the cost of
one or more railroad projects or parts thereof by the issuance from time to time of railroad maintenance revenue bonds and notes of the state in such principal amount as the authority deems necessary, but the aggregate amount of all issues of bonds and notes outstanding at one time for all projects authorized hereunder shall not exceed that amount capable of being serviced by revenues received from such projects.

The authority may, from time to time, issue renewal notes, issue bonds to pay such notes and whenever it deems refunding expedient, refund any bonds by the issuance of railroad maintenance revenue refunding bonds of the state, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other authorized purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes shall be obligations of the authority payable out of the revenues of the authority, which are pledged for such payment, without preference or priority of the first bonds issued, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues. Such pledge shall be valid and binding from the time the pledge is made and the revenue so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof.

All such bonds and notes shall have and are hereby declared to have all the qualities of negotiable instruments.

The bonds and notes shall be authorized by resolution of the authority, shall bear such date and shall mature at such time, in the case of any such note or any renewals thereof not exceeding five years from the date of issue of
such original note, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution may provide. The bonds and notes shall bear interest at such rate, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes shall be executed by the chairman and vice-chairman of the authority, both of whom may use facsimile signatures. The official seal of the authority or a facsimile thereof shall be affixed there- to or printed thereon and attested, manually or by facsimile signature, by the secretary-treasurer of the authority, and any coupons attached thereto shall bear the signature or facsimile signature of the chairman of the authority. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he had remained in office until such delivery and in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes such facsimile seal will continue to be sufficient for all purposes.

Any resolution authorizing any bonds or notes or any issue thereof may contain provisions, subject to such agreements with bondholders or noteholders as may then exist, which provisions shall be a part of the contract with the holders thereof, as to pledging all or any part of the revenues of the authority to secure the payment of the bonds or notes or of any issue thereof; the use and disposition of revenues of the authority; a covenant to fix, alter and collect rates, rentals and other charges so that pledged revenues will be sufficient to pay the costs of operation, maintenance and repairs, pay principal of and interest on bonds or notes secured by the pledge of such revenues and provide such reserves as may be required by the applicable resolution or trust agreement; the set-
ting aside of reserve funds, sinking funds or replacement
and improvement funds and the regulation and disposition
thereof; the crediting of the proceeds of the sale of bonds
or notes to and among the funds referred to or provided
for in the resolution authorizing the issuance of the bonds
or notes; the use, lease, sale or other disposition of any
railroad project or any other assets of the authority;
limitations on the purpose to which the proceeds of sale
of bonds or notes may be applied and pledging such pro-
cceeds to secure the payment of the bonds or notes or of
any issue thereof; notes issued in anticipation of the
issuance of bonds, the agreement of the authority to do
all things necessary for the authorization, issuance and
sale of such bonds in such amounts as may be necessary
for the timely retirement of such notes; limitations on
the issuance of additional bonds or notes; the terms upon
which additional bonds or notes may be issued and se-
cured; the refunding of outstanding bonds or notes; the
procedure, if any, by which the terms of any contract
with bondholders or noteholders may be amended or
abrogated, the amount of bonds or notes the holders of
which must consent thereto and the manner in which
such consent may be given; limitations on the amount of
moneys to be expended by the authority for operating,
administrative or other expenses of the authority; secur-
ing any bonds or notes by a trust agreement; and any
other matters, of like or different character, which in any
way affect the security or protection of the bonds or notes.

Neither the members of the authority nor any person
executing the bonds or notes shall be liable personally on
the bonds or notes or be subject to any personal liability
or accountability by reason of the issuance thereof.

§29-18-11. Trustee for bondholders; contents of trust agree-
ment.

In the discretion of the authority, any railroad mainte-
nance bonds or notes or railroad maintenance refunding
bonds issued by the authority under this article may
be secured by a trust agreement between the authority
and a corporate trustee, which trustee may be any trust
company or banking institution having the powers of
a trust company within or without this state.
Any such trust agreement may pledge or assign reve-
ues of the authority to be received, but shall not convey
or mortgage any railroad project or any part thereof.
Any such trust agreement or any resolution providing
for the issuance of such bonds or notes may contain such
provisions for protecting and enforcing the rights and
remedies of the bondholders or noteholders as are reason-
able and proper and not in violation of law, including
covenants setting forth the duties of the authority in
relation to the acquisition of property, the construction,
improvement, maintenance, repair, operation and insur-
ance of the railroad project in connection with which
such bonds or notes are authorized, the rentals or other
charges to be imposed for the use or services of any
railroad project, the custody, safeguarding, and applica-
tion of all moneys and provisions for the employment
of consulting engineers in connection with the construc-
tion or operation of such railroad project. Any banking
institution or trust company incorporated under the laws
of this state which may act as depository of the proceeds
of bonds or notes or of revenues shall furnish such
indemnifying bonds or pledge such securities as are re-
quired by the authority. Any such trust agreement may
set forth the rights and remedies of the bondholders
and note holders and of the trustee and may restrict in-
dividual rights of action by bondholders and note holders
as customarily provided in trust agreements or trust
indentures securing similar bonds. Such trust agreement
may contain such other provisions as the authority deems
reasonable and proper for the security of the bondholders
or noteholders. All expenses incurred in carrying out
the provisions of any such trust agreement may be treated
as a part of the cost of the operation of the railroad
project. Any such trust agreement or resolution au-
thorizing the issuance of railroad maintenance revenue
bonds may provide the method whereby the general
administrative overhead expenses of the authority shall
be allocated among the several projects acquired or con-
structed by it as a factor of the operating expenses of
each such project.
§29-18-12. Legal remedies of bondholders and trustees.

1 Any holder of railroad maintenance revenue bonds issued under the authority of this article or any of the coupons appertaining thereto and the trustee under any trust agreement, except to the extent the rights given by this article may be restricted by the applicable resolution or such trust agreement, may by civil action, mandamus or other proceedings, protect and enforce any rights granted under the laws of this state or granted under this article, by the trust agreement or by the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this article, or by the trust agreement or resolution, to be performed by the authority or any officer thereof, including the fixing, charging and collecting of sufficient rentals or other charges.

§29-18-13. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.

1 Railroad maintenance revenue bonds and notes and railroad maintenance revenue refunding bonds issued under authority of this article and any coupons in connection therewith shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state, and the holders or owners thereof shall have no right to have taxes levied by the Legislature or taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon, but such bonds and notes shall be payable solely from the revenues and funds pledged for their payment as authorized by this article unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under authority of this article, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by this article. All such bonds and notes shall contain on the face thereof a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the state or any county,
municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under authority of this article. Such article does not authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any county, municipality or political subdivision thereof.

§29-18-14. Use of funds by authority; restrictions thereon.

All moneys, properties and assets acquired by the authority, whether as proceeds from the sale of railroad maintenance revenue bonds or as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys shall at no time be commingled with other public funds. Such moneys, except as otherwise provided in any resolution authorizing the issuance of railroad maintenance revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section thirteen of this article, shall be kept in appropriate depositories and secured as provided and required by law. The resolution authorizing the issuance of such bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any banking institution or trust company to which, such moneys are paid shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to the conditions this article and such resolution or trust agreement provide.


Funds of the authority in excess of current needs, except as otherwise provided in any resolution authorizing the issuance of its railroad maintenance revenue bonds or in any trust agreement securing the same, may be invested by the authority in any security or securities in which the “West Virginia State Board of Investments” is authorized to invest under sections nine and ten, article six, chapter twelve of this code, except those securi-
ties specified in subdivisions (f) and (g) of said section nine. Income from all such investments of moneys in any fund shall be credited to such funds as the authority determines, subject to the provisions of any such resolution or trust agreement and such investments may be sold at such times as the authority determines.

§29-18-16. Rentals and other revenues from railroad projects; contracts and leases of authority; cooperation of other governmental agencies; bonds of such agencies.

The authority may charge, alter and collect rates, rentals or other charges for the use or services of any project, and contract in the manner provided by this section with one or more persons, one or more governmental agencies, or any combination thereof, desiring the use or services thereof, and fix the terms, conditions, rates, rentals or other charges for such use or services. Such rentals or other charges shall not be subject to supervision or regulation by any other authority, department, commission, board, bureau or agency of the state, and such contract may provide for acquisition by such person or governmental agency of all or any part of such railroad project for such consideration payable over the period of the contract or otherwise as the authority in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of railroad maintenance revenue bonds or notes or railroad maintenance revenue refunding bonds of the authority or any trust agreement securing the same. Any governmental agency which has power to construct, operate and maintain railroad projects may enter into a contract or lease with the authority whereby the use or services of any railroad project of the authority will be made available to such governmental agency and pay for such use or services such rentals or other charges as may be agreed to by such governmental agency and the authority.

Any governmental agency or agencies or combination thereof may cooperate with the authority in the acquisition or construction of a railroad project and shall
31 enter into such agreements with the authority as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such contributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties, including without limitation the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the authority to the extent necessary or appropriate for purposes of the issuance of railroad maintenance revenue bonds by the authority. Any governmental agency may provide such contribution as is required under such agreements by the appropriation of money or, if authorized by a favorable vote of the electors to issue bonds or notes or levy taxes or assessments and issue notes or bonds in anticipation of the collection thereof, by the issuance of bonds or notes or by the levying of taxes or assessments and the issuance of bonds or notes in anticipation of the collection thereof, and by the payment of such appropriated money or the proceeds of such bonds or notes to the authority pursuant to such agreements.

Any governmental agency, pursuant to a favorable vote of the electors in an election held before or after the effective date of this section for the purpose of issuing bonds to provide funds to acquire, construct or equip, or provide real estate and interests in real estate for a railroad project, whether or not the governmental agency at the time of such election had the authority to pay the proceeds from such bonds or notes issued in anticipation thereof to the authority as provided in this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the proceeds thereof to the authority in accordance with an agreement between such governmental agency and the authority: Provided, That the legislative authority of the governmental agency finds and determines that the railroad project to be acquired or constructed by the authority in cooperation with such governmental agency
will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of such bonds or notes.

§29-18-17. Maintenance, operation and repair of projects; reports by authority to governor and Legislature.

1 Each railroad project, when constructed and placed in operation, shall be maintained and kept in good condition and repair by the authority or the authority shall cause the same to be maintained and kept in good condition and repair. Each such project shall be operated by such operating employees as the authority employs or pursuant to a contract or lease with a governmental agency or person.

2 All public or private property damaged or destroyed in carrying out the provisions of this article and in the exercise of the powers granted hereunder with regard to any project shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided in accordance with the provisions of this article.

3 As soon as possible after the close of each fiscal year, the authority shall make an annual report of its activities for the preceding fiscal year to the governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority’s operations during the preceding fiscal year.

4 The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of its projects.


1 The provisions of sections nine and ten, article six, chapter twelve of this code to the contrary notwithstanding, all railroad maintenance revenue bonds issued pursuant to this article shall be lawful investments for the West Virginia state board of investments and shall also be lawful investments for banking institutions, societies for savings, building and loan associations, savings and
8 loan associations, deposit guarantee associations, trust
9 companies, insurance companies, including domestic for
10 life and domestic not for life insurance companies.

§29-18-19. **Exemption from taxation.**
1 The exercise of the powers granted to the authority by
2 this article will be in all respects for the benefit of the
3 people of the state, for the improvement of their health,
4 safety, convenience, well-being and for the enhancement
5 of their residential, agricultural, recreational, economic,
6 commercial and industrial opportunities and is a public
7 purpose. As the operation and maintenance of railroad
8 projects will constitute the performance of essential
9 governmental functions, the authority shall not be re-
10 quired to pay any taxes or assessments upon any railroad
11 project or upon any property acquired or used by the
12 authority or upon the income therefrom. Such bonds and
13 notes and all interest and income thereon shall be
14 exempt from all taxation by this state, or any county,
15 municipality, political subdivision or agency thereof,
16 except inheritance taxes.

§29-18-20. **Acquisition of property by authority—Acquisition**
**by purchase; governmental agencies authorized**
**to convey, etc., property.**
1 The authority may acquire by purchase, whenever it
2 deems such purchase expedient, any land, property, rights,
3 rights-of-way, franchises, easements and other interests in
4 lands it deems necessary or convenient for the construc-
5 tion and operation of any railroad project upon such terms
6 and at such prices it considers reasonable and can be
7 agreed upon between the authority and the owner thereof,
8 and take title thereto in the name of the state.
9 All governmental agencies, notwithstanding any con-
10 trary provision of law, may lease, lend, grant or convey
11 to the authority, at its request, upon such terms as the
12 proper authorities of such governmental agencies deem
13 reasonable and fair and without the necessity for an ad-
14 vertisement, auction, order of court or other action or
15 formality, other than the regular and formal action of the
16 governmental agency concerned, any real property or
17 interests therein, including improvements thereto or per-
sonal property which is necessary or convenient to the
effectuation of the authorized purposes of the authority,
including public roads and other real property or interests
therein, including improvements thereto or personal prop-
erty already devoted to public use.


1 This section authorizes the authority to take or disturb
property or facilities belonging to any public utility or to
a common carrier, which property or facilities are re-
quired for the proper and convenient operation of such
public utility or common carrier, if provision is made for
the restoration, relocation or duplication of such property
or facilities elsewhere at the sole cost of the authority.

2 When the authority finds it necessary to change the lo-
cation of any portion of any public road, state highway,
railroad or public utility facility in connection with the
construction of a railroad project, it shall cause the same
to be reconstructed at such location as the unit or division
of government having jurisdiction over such road, high-
way, railroad or public utility facility deems most favor-
able. Such construction shall be of substantially the same
type and in as good condition as the original road, high-
way, railroad or public utility facility. The cost of such
reconstruction, relocation or removal and any damage
incurred in changing the location of any such road, high-
way, railroad or public utility facility shall be paid by
the authority as a part of the cost of such railroad project.

22 When the authority finds it necessary that any public
highway or portion thereof be vacated by reason of the
acquisition or construction of a railroad project, the au-
thority shall request the West Virginia commissioner of
highways, in writing, to vacate such highway or portion
thereof if the highway or portion thereof to be vacated is
part of the state road system, or, if the highway or portion
thereof to be vacated is under the jurisdiction of a county
or a municipality, the authority shall request the govern-
ing body of such county or municipality to vacate such
public road or portion thereof. The authority shall pay to
the West Virginia commissioner of highways or to the
county or municipality, as the case may be, as part of the
cost of such railroad project, any amounts required to be
deposited with any court in connection with proceedings
for the determination of compensation and damages and
all amounts of compensation and damages finally de-
termined to be payable as a result of such vacation.
The authority may make reasonable rules and regula-
tions for the installation, construction, maintenance, re-
pair, renewal, relocation and removal of railroad or public
utility facilities in, on, over or under any railroad project.
Whenever the authority determines that it is necessary
that any such facilities installed or constructed in, on,
over or under property of the authority pursuant to such
rules and regulations be relocated, the railroad or public
utility owning or operating such facilities shall relocate
or remove them in accordance with the order of the au-
thority. The cost and expenses of such relocation or re-
moval, including the cost of installing such facilities in a
new location, the cost of any lands or any rights or in-
terests in lands and the cost of any other rights acquired
to accomplish such relocation or removal, may be paid by
the authority as a part of the cost of such railroad project.
In case of any such relocation or removal of facilities, the
railroad or public utility owning or operating them, and
its successors or assigns, may maintain and operate such
facilities, with the necessary appurtenances in the new
location in, on, over or under the property of the author-
ity for as long a period and upon the same terms as it had
the right to maintain and operate such facilities in their
former location.
§29-18-22. Financial interest in contracts prohibited; penalty.
No officer, member or employee of the authority shall
be financially interested, directly or indirectly, in any
contract of any person with the authority, or in the sale
of any property, real or personal, to or from the authority.
This section does not apply to contracts or purchases of
property, real or personal, between the authority and any
governmental agency. If any officer, member or employee
of the authority has such financial interest in a contract or
sale of property prohibited hereby, he shall be guilty of a
misdemeanor, and, upon conviction thereof, shall be fined
not more than one thousand dollars, or imprisoned in the
county jail not more than one year, or both fined and imprisoned.

§29-18-23. Meetings and records of authority to be kept public.
1 All meetings of the authority shall be open to the public
2 and the records of the authority shall be open to public
3 inspection at all reasonable times, except as otherwise
4 provided in this section. All final actions of the authority
5 shall be journalized and such journal shall also be open
6 to the inspection of the public at all reasonable times.

1 The provisions of this article are hereby declared to be
2 remedial and shall be liberally construed to effectuate its
3 purposes and intents.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 22nd day of March, 1975.

Governor
PRESENTED TO THE GOVERNOR

Date 3/18/75
Time 4:55 p.m.