WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

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ENROLLED
Committee Substitute for
HOUSE BILL No. 1206

(By Mr. )

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PASSED April 8, 1977

In Effect ninety days from Passage
AN ACT to amend and reenact article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the state sinking fund commission; continuing the commission and designating it the West Virginia municipal bond commission; providing for changes in the composition of the commission, relating to terms of appointment, vacancies, and removal from office; providing appointment of chief administrative officer; relating to meetings; defining a quorum; providing compensation and expenses for members of commission; providing for legal representation; establishing an executive committee and providing powers and duties of executive committee; requiring bonds of officers and employees of commission; establishing powers and duties of commission; authorizing securities for investment; relating to limitations and prohibitions on purchase, sale or exchange of securities; providing for the proration of interest amount; various accounts; relating to the custody of securities; providing for the notification by issuer of bond sale; relating to the collection, deposit and accounting of funds; creating the municipal bond commission fund; relating to accounts to be kept by commission issuing annual statements and return of canceled bonds and coupons; providing for issuance of levy statements; providing methods for the destruction of canceled coupons and
bonds; relating to appointment of substitute paying agents; authorizing the transfer and investment of funds; and providing for annual reports.

Be it enacted by the Legislature of West Virginia:

That article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. MUNICIPAL BOND COMMISSION.

§13-3-1. Commission continued.

The state sinking fund commission is hereby continued in all respects as heretofore constituted under prior provisions of this article, but is hereby designated as the West Virginia municipal bond commission.

§13-3-2. Composition of commission; terms of appointment; vacancies; removal from office.

(a) The commission shall be composed of five members as follows: (1) The auditor of the state, by virtue of his office; (2) the treasurer of the state, by virtue of his office; (3) the state tax commissioner, by virtue of his office; and (4) two residents of the state appointed by the governor by and with the advice and consent of the Senate. Of the two appointed members, one shall be, or shall have been, the mayor of a municipality, and one shall be, or shall have been, a member of a county commission: Provided, That if such mayor or member of a county commission is not presently serving in such position, he shall have served in such position within the six years preceding the term for which such member is to be appointed. No more than one of the members appointed by the governor may belong to the same political party.

(b) The appointed members of the commission shall serve overlapping terms of four years each and until their respective successors have been appointed and qualified, except for the original appointments, one member shall be appointed for a term of four years and until his successor has been appointed and qualified, one member shall be appointed for two years and until his successor has been appointed and qualified. Each
member shall take and subscribe to the oath required by section five, article four of the constitution of this state.

(c) Vacancies shall be filled by appointment by the governor for the unexpired term of the member whose office is vacant and such appointment shall be made within sixty days of the occurrence of such vacancy.

(d) No member of the board appointed by the governor may be removed from office except for official misconduct, incompetency, neglect of duty or gross immorality.

§13-3-3. Officers; chief administrative officer; meetings; quorums; compensation and expenses; legal representation.

(a) The state tax commissioner shall be chairman of the commission and the state treasurer shall be treasurer of the commission.

(b) The members of the commission shall appoint a chief administrative officer and may fix his title, duties and compensation. The commissioner is authorized to employ such other employees as may be necessary and such consultants as the commission deems advisable and fix their compensation and prescribe their duties.

(c) Appointed members of the commission shall be paid fifty dollars for each day or substantial portion thereof that they are engaged in the work of the commission. Each member of the commission may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of duties on behalf of the commission.

(d) The commission shall hold at least three meetings in each fiscal year, one of which meetings shall be held in July and shall be the annual meeting. Such meetings shall be held on such dates and at such places as the chairman may prescribe. Additional meetings may be held at the call of the chairman or upon the written request of three members at such time and place as designated in such call or request. Four members of the commission constitute a quorum.

(e) The attorney general shall be the legal advisor to the commission.
§13-3-4. Executive committee; powers and duties.

(a) The state tax commissioner, the state treasurer, and the state auditor constitute the executive committee of the municipal bond commission. The executive committee is vested with all the powers of the commission when it is not in session, except that the executive committee may not overrule, reverse or disregard any action of the full commission. Action of the executive committee shall be taken by resolution adopted by a majority of the executive committee. The chairman may call meetings of the executive committee at any time.

§13-3-5. Officer and employee bonds.

The state treasurer shall give a separate and additional bond for the faithful performance of his duties as custodian of the moneys, securities and other investments of the commission in such amount as shall, from time to time, be fixed by the commission. The chief administrative officer and the employees designated by the commission shall furnish bonds in such form and in such amounts, as the commission shall, from time to time, determine. The costs of such bonds shall be paid by the commission and such bonds shall be filed in the same office as are the bonds of state officers. The attorney general’s approval of all bonds required by this section shall be obtained.

§13-3-6. Powers and duties of commission.

The commission is hereby granted, has and may exercise all powers necessary or appropriate to effectuate the purposes of this article.

§13-3-7. Permissible investments; limitations and prohibitions on purchase, sale or exchange of securities; public records; combining funds and proration of interest; custody of securities.

(a) Notwithstanding any provisions of this code to the contrary, the commission may invest funds under its control in the following classes of securities and not otherwise:

(1) Securities of the United States or agency thereof which
are guaranteed by or for which the full faith and credit of the
United States is pledged for the payment of the principal and
interest;

(2) General obligations of the state or any of its agencies,
boards or commissions; and

(3) General obligations of any county, municipality or school
district in this state.

(b) Securities purchased or held under the provisions of this
article may be sold or exchanged for other securities: Provided,
That (1) no security shall be purchased, sold or exchanged
without the concurrence or ratification of a majority of all
members of the board, (2) no security shall be purchased at
a price above, nor sold or exchanged at a price below its
prevailing fair market value, (3) no security shall be pur-
chased, sold or exchanged for the purpose of aiding any indi-
vidual, firm or corporation by the payment of brokerage com-
missions or fees thereto, (4) no security purchased, sold or
exchanged shall benefit any member or employee of the com-
mission, and (5) no security shall be received in exchange
which does not comply with the requirements of this article.

(e) The commission shall record all pertinent information
related to any purchase, sale or exchange of securities and
make such information available for public inspection during
normal office hours of the commission.

(d) Funds from several or all accounts may be combined
for investment and any interest earned shall be prorated and
credited to the various contributing accounts on the basis of
amount thereof invested, calculated according to an average
periodic balance or other generally accepted accounting prin-
cipal: Provided, That such proration shall be calculated at least
once a year or upon specific request made to the commission.

(e) All securities purchased by the commission as an in-
vestment for the funds shall remain in the custody of the state
treasurer until the same are sold, exchanged, retired or ma-
ture and are paid.

Prior to the issuance of any general obligation bond or refunding bond by the state of West Virginia acting through its departments, commissions, boards or agencies or by any county, municipality or school district, the issuer shall notify the commission of any proposed bond sale. Within thirty days after issuance of bonds, the commission shall be notified of the terms of the sale and provided with a copy of the bond ordinance or resolution.


All interest and other funds on hand July first of each year and belonging to the counties, municipalities or school districts for the purpose of amortizing bonded indebtedness, shall be, by the treasurer or collector thereof, not later than the following September, forwarded to the commission to be deposited in the state treasury to the credit of the state.

Whenever the amount deposited for any issuer is not sufficient to meet the interest or principal due, it shall be the duty of the treasurer or collector of such issuer, upon being notified of the fact by the commission, to remit a sufficient amount of interest or principal that may be in his possession to meet the interest or principal due.

Any taxes to provide for the payment of principal, creation of a reserve or sinking fund, or for the payment of interest on bonds by any county, municipality or school district which shall be collected by any state officer, shall be paid by such officer to the commission, to be at once applied to the payment of the debt of the county, municipality or school district and the fact of such application of such fund shall be reported by the auditor to the treasurer or collector of such issuer, which report shall be a receipt for the amount therein named.

The state auditor and the state treasurer shall carry an account to be known as the municipal bond commission fund. All deposits shall be carried as a part of such fund.

The commission shall deposit all collections and receipts with the treasurer daily.
§13-3-10. Accounts of bond issues; annual statements, canceled bonds and coupons.

The commission shall keep separate accounts for each bond issue showing in detail all receipts and disbursements: Provided, That accounts of one issuer for the same purpose may be consolidated into one account. Within thirty days after the end of the fiscal year, the commission shall submit to each issuer a statement of all receipts and disbursements of the preceding fiscal year. At the same time, the commission shall surrender to each issuer coupons and bonds which have been paid and canceled or certificates of destruction as provided for in section twelve of this article.

§13-3-11. Statement by commission to political subdivision showing levy required.

The commission shall, annually, at least thirty days before the time for making up the estimate for levy purposes, render to each political subdivision having outstanding general obligation bonds, a statement showing the levy required to pay the interest on and provide for the retirement of the subdivision's outstanding general obligation bonds.

§13-3-12. Destruction of canceled bonds and coupons.

Any canceled bonds and interest coupons of any issue for which the commission acts as fiscal agent or paying agent may be destroyed in the discretion of the commission by one of the two methods described herein below.

Method I—The commission shall maintain a permanent record for the purpose of recording the destruction of bonds and coupons, showing the following: (1) With respect to bonds, the purpose of issuance, the date of issue, serial numbers (if any), denomination, maturity date, and total principal amount; and (2) with respect to coupons, the purpose of issue and date of the bonds to which the coupons appertain, the maturity date of the coupons and, as to each maturity date, the denomination, quantity, and total amount of coupons.

After recording the specified information, the commission shall have the canceled bonds and coupons destroyed by either burning or shredding, in the presence of the chair-
man of the commission and any three commission mem-
bers, each of whom shall certify that he saw the canceled
bonds and coupons destroyed. Such certificates shall be
made a part of the permanent record. Canceled bonds or
coupons shall not be destroyed until after one year from the
date of payment.

Method II—The commission may contract with any bank
or trust company acting as paying agent or co-paying agent
for a bond issue for the destruction of bonds and interest
coupons which have been canceled by the paying agent. The
contract shall require that the paying agent give the com-
mission a written certificate containing the same information
required by Method I. The certificates shall be made part
of the permanent record book of the commission. Each
contract shall also require that the paying agent be respon-
sible for proper payment and disposition of all bonds and
coupons, and for any duplicate payments to unauthorized per-
sons and nonpayment to authorized persons occurring as a
result of destruction of bonds or coupons under this section.
In addition, the commission may require the paying agent
to submit an indemnity bond, in an amount to be determined
by the commission, to assure performance of the duties
specified in this section. Canceled bonds or coupons may not
be destroyed until one year from the date of payment.


The commission may appoint a new paying agent on any
issue for which the commission acts as fiscal agent, in the
event of the insolvency, threat of insolvency, malfeasance,
misfeasance, incompetence, or discontinuance from business
of the paying agent or in the case of discontinuance of the
place of payment as designated by the terms of such bonds.
Upon appointment of a substitute paying agent, the com-
mmission shall publish notice of such action as a Class II
legal advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the publica-
tion area for such publication shall be the county in which
the former paying agent had residence. Upon designation
of another place of payment, publication of notice shall be
§13-3-14. Authorizing the transfer and investment of funds raised by levy, sale of bonds or otherwise.

Any funds of a political subdivision or of any of the agencies, boards, commission or departments of the state of West Virginia raised by levy, sale of bonds or otherwise and which cannot be used within a reasonable time may be transferred to the municipal bond commission. Any funds so transferred shall be invested by the commission in accordance with the provisions of this article. Any such funds so transferred may be withdrawn by the public body which transferred the same as authorized by this article upon one hundred twenty days' notice in writing to the commission.


The commission shall prepare a complete and full report of its operations and investments at the close of each fiscal year and furnish a copy thereof to the governor, president of the Senate, speaker of the House of Delegates and the legislative auditor on or before the first day of the next regular session of the Legislature. Copies of the report shall be available upon request for a reasonable fee to any citizen of the state: Provided, That such report shall be available for public inspection during regular office hours of the commission.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence E. Christian Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. C. Dillon Jr.
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

W. Goodale
President of the Senate

Donald L. Vopp
Speaker House of Delegates

The within is approved this the 24th day of April 1977.

Governor