

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



**ENROLLED**

*House Committee Substitute for Judiciary Committee Substitute for*

**SENATE BILL NO. 219**

(By Mr. *Mulby & M. Kinale*)



PASSED *April 9* 1977

In Effect *July 1, 1977* **Passage**

*No. 219*

**ENROLLED**

FINANCE

COMMITTEE SUBSTITUTE

FOR

JUDICIARY

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FOR

**Senate Bill No. 219**

(By MR. NEELEY and MR. HINKLE)

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[Passed April 9, 1977; in effect July 1, 1977.]

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AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-six, relating to the adoption of the West Virginia resource recovery—solid waste disposal authority act; short title; legislative findings, declaration of policy and responsibility, purpose and intent of article; definitions of terms; creation of the West Virginia resource recovery—solid waste disposal authority for the performance of essential governmental functions; creation of the West Virginia resource recovery—solid waste disposal authority board, its organization and composition; designation and appointment of board members, their qualifications, term of office, oath, bond, compensation and expenses; meetings of board; appointment of director of authority by board; authorizing the authority to provide solid waste disposal projects; powers, duties and responsibility of authority; power of authority to collect service charges and exercise other powers of governmental agen-

cies in event of default; venue of actions against the authority; authorizing the authority to purchase property and exercise the right of eminent domain; relating to development and designation of solid waste disposal sheds by authority; expenditure of funds for study and engineering of proposed solid waste disposal projects; issuance of solid waste disposal revenue bonds, notes, renewal bonds and renewal notes; requirements for their issuance; relating generally to all such revenue bonds and notes and resolutions authorizing the same; limiting the total amount of bonded indebtedness to fifty million dollars; trust agreements to secure all such revenue bonds and notes; legal remedies of bondholders and trustees; involvement of the authority and counties, municipalities and other political subdivisions in the establishment of solid waste disposal projects and the maintenance and operation thereof; specifying that such revenue bonds and notes are not debt of state, or of any county, municipality or political subdivision in state; relating to use of moneys, properties and assets by authority and restrictions on their use; investment of funds by authority; rentals, fees, service charges and other revenues the authority may derive from solid waste disposal projects; relating generally to contracts and agreements with respect to such projects; authorizing governmental and other contributions to authority; authorizing proceeds of other bond issues to be used to aid authority; maintenance, operation and repair of solid waste disposal projects and the taking, destroying and damaging of property; requiring reports by authority; making solid waste disposal revenue bonds lawful investments; providing exemption from taxation for authority; prohibiting officers, members and employees of the authority from having financial interest in contracts, sale of property and activities of authority and setting forth criminal penalties for violation of such prohibition; meetings and records of authority to be open to public with certain exceptions; continuing regulation of solid waste collectors and haulers by public service commission and bringing about their compliance with solid waste disposal shed plan and projects; relating to cooperation of authority and enforcement agencies in collecting and disposing of abandoned

household appliances and motor vehicles, etc.; and rule of construction of provisions of article.

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

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-six, to read as follows:

**ARTICLE 26. WEST VIRGINIA RESOURCE RECOVERY—SOLID WASTE DISPOSAL AUTHORITY.**

**§16-26-1. Short title.**

1 This article shall be known and cited as the “West  
2 Virginia Resource Recovery—Solid Waste Disposal  
3 Authority Act.”

**§16-26-2. Legislative findings; declaration of policy and responsibility; purpose and intent of article.**

1 The Legislature finds that uncontrolled, inadequately  
2 controlled and improper collection and disposal of solid  
3 waste (1) is a public nuisance and a clear and present  
4 danger to people; (2) provides harborage and breeding  
5 places for disease-carrying, injurious insects, rodents and  
6 other pests harmful to the public health, safety and wel-  
7 fare; (3) constitutes a danger to livestock and domestic  
8 animals; (4) decreases the value of private and public  
9 property, causes pollution, blight and deterioration of the  
10 natural beauty and resources of the state and has adverse  
11 economic and social effects on the state and its citizens;  
12 and (5) results in the squandering of valuable nonrenew-  
13 able and nonreplenishable resources contained in solid  
14 waste.

15 Further, the Legislature finds that governmental  
16 agencies in the state and the private sector do not have  
17 the financial and other resources needed to provide for  
18 the proper collection and disposal of solid waste; that  
19 solid waste disposal sheds and projects must be estab-  
20 lished on a relatively large scale to be economically  
21 feasible and stable; and that proper solid waste collection  
22 and disposal at the lowest minimum cost can only be  
23 achieved through comprehensive solid waste manage-  
24 ment.

25 It is declared to be the public policy and a responsi-  
26 bility of this state to assist efforts of governmental  
27 agencies and the private sector to provide for the proper  
28 collection, disposal and recycling of solid waste and to  
29 solve and prevent the problems set forth in this article.  
30 It is the purpose and intent of the Legislature in enacting  
31 this article to provide for the necessary, dependable,  
32 effective and efficient collection, disposal and recycling  
33 of solid waste and to assist and cooperate with govern-  
34 mental agencies and the private sector in achieving all  
35 the purposes set forth in this article, and to encourage  
36 the recycling or extraction of recoverable resources from  
37 such solid waste.

38 The Legislature finds that the public policy and re-  
39 sponsibility of the state as set forth in this section cannot  
40 be effectively attained without the funding, establishment,  
41 operation and maintenance of solid waste disposal proj-  
42 ects as provided in this article.

**§16-26-3. Definitions.**

1 As used in this article, unless the context clearly re-  
2 quires a different meaning:

3 (1) "Authority" means the West Virginia resource  
4 recovery—solid waste disposal authority created in sec-  
5 tion four of this article, the duties, powers, responsibil-  
6 ities and functions of which are specified in this article.

7 (2) "Board" means the West Virginia resource recovery  
8 —solid waste disposal authority board created in section  
9 four of this article, which shall manage and control the  
10 West Virginia resource recovery—solid waste disposal  
11 authority as provided in this article.

12 (3) "Bond" or "solid waste disposal revenue bond"  
13 means a revenue bond or note issued by the West Virginia  
14 resource recovery—solid waste disposal authority to effect  
15 the intents and purposes of this article.

16 (4) "Construction" includes reconstruction, enlarge-  
17 ment, improvement and providing furnishings or equip-  
18 ment for a solid waste disposal project.

19 (5) "Cost" means, as applied to solid waste disposal  
20 projects, the cost of their acquisition and construction;

21 the cost of acquisition of all land, rights-of-way, property,  
22 rights, easements, franchise rights and interests required  
23 by the authority for such acquisition and construction; the  
24 cost of demolishing or removing any buildings or struc-  
25 tures on land so acquired, including the cost of acquiring  
26 any land to which such buildings or structures may be  
27 moved; the cost of diverting highways, interchange of  
28 highways and access roads to private property, including  
29 the cost of land or easements therefor; the cost of all  
30 machinery, furnishings and equipment; all financing  
31 charges and interest prior to and during construction and  
32 for no more than eighteen months after completion of  
33 construction; the cost of all engineering services and all  
34 expenses of research and development with respect to  
35 solid waste disposal facilities; the cost of all legal ser-  
36 vices and expenses; the cost of all plans, specifications,  
37 surveys and estimates of cost and revenues; all working  
38 capital and other expenses necessary or incident to de-  
39 termining the feasibility or practicability of acquiring or  
40 constructing any such project; all administrative expenses  
41 and such other expenses as may be necessary or incident  
42 to the acquisition or construction of the project; the  
43 financing of such acquisition or construction, including the  
44 amount authorized in the resolution of the authority  
45 providing for the issuance of solid waste disposal revenue  
46 bonds to be paid into any special funds from the proceeds  
47 of such bonds; and the financing of the placing of any  
48 such project in operation. Any obligation or expenses  
49 incurred after the effective date of this article by any  
50 governmental agency, with the approval of the authority,  
51 for surveys, borings, preparation of plans and specifica-  
52 tions and other engineering services in connection with  
53 the acquisition or construction of a project shall be re-  
54 garded as a part of the cost of such project and shall  
55 be reimbursed out of the proceeds of loans or solid waste  
56 disposal revenue bonds as authorized by the provisions  
57 of this article.

58 (6) "Governmental agency" means the state govern-  
59 ment or any agency, department, division or unit thereof;  
60 counties; municipalities; watershed improvement districts;  
61 soil conservation districts; sanitary districts; public ser-

62 vice districts; drainage districts; regional governmental  
63 authorities and any other governmental agency, entity,  
64 political subdivision, public corporation or agency having  
65 the authority to acquire, construct or operate solid waste  
66 disposal facilities; the United States government or any  
67 agency, department, division or unit thereof; and any  
68 agency, commission or authority established pursuant to  
69 an interstate compact or agreement.

70 (7) "Industrial waste" means any solid waste substance  
71 resulting from or incidental to any process of industry,  
72 manufacturing, trade or business, or from or incidental to  
73 the development, processing or recovery of any natural  
74 resource.

75 (8) "Owner" includes all persons, partnerships or  
76 governmental agencies having any title or interest in any  
77 property rights, easements and interests authorized to be  
78 acquired by this article.

79 (9) "Person" means any public or private corporation,  
80 institution, association, firm or company organized or  
81 existing under the laws of this or any other state or  
82 country; the United States or the state of West Virginia;  
83 governmental agency; political subdivision; county com-  
84 mission; municipality; industry; sanitary district; public  
85 service district; drainage district; soil conservation dis-  
86 trict; solid waste disposal shed district; partnership; trust;  
87 estate; individual; group of individuals acting individually  
88 or as a group; or any other legal entity whatever.

89 (10) "Pollution" means the discharge, release, escape  
90 or deposit, directly or indirectly, of solid waste of what-  
91 ever kind or character, on lands or in waters in the state  
92 in an uncontrolled, unregulated or unapproved manner.

93 (11) "Revenue" means any money or thing of value  
94 collected by, or paid to, the West Virginia resource  
95 recovery—solid waste disposal authority as rent, use fee,  
96 service charge or other charge for use of, or in connection  
97 with, any solid waste disposal project, or as principal of  
98 or interest, charges or other fees on loans, or any other  
99 collections on loans made by the West Virginia solid  
100 waste disposal authority to governmental agencies to  
101 finance in whole or in part the acquisition or construction

102 of any solid waste development project or projects, or  
103 other money or property which is received and may be  
104 expended for or pledged as revenues pursuant to this  
105 article.

106 (12) "Solid waste" means all putrescible and non-  
107 putrescible solid waste substances, except human excreta,  
108 including but not limited to garbage, rubbish, ashes, in-  
109 cinerator residue, street refuse, dead animals, demolition  
110 and construction waste, vehicles and parts thereof, tires,  
111 appliances, sewage plant sludge, commercial and indus-  
112 trial waste and special waste, including but not limited  
113 to explosives, pathological waste and radioactive material,  
114 except those commercial and industrial wastes and special  
115 wastes which are under the control of the department  
116 of natural resources or the West Virginia air pollution  
117 control commission, or both, or of the United States gov-  
118 ernment.

119 (13) "Solid waste disposal facility" means any method,  
120 system or facility to collect, transport, treat, neutralize,  
121 dispose of, stabilize, segregate, recover, recycle or hold  
122 solid waste, including without limiting the generality of  
123 the foregoing, the equipment, furnishings and appurte-  
124 nances thereof.

125 (14) "Solid waste disposal project" or "project" means  
126 any solid waste disposal facility the acquisition or con-  
127 struction of which is authorized by the West Virginia  
128 resource recovery—solid waste disposal authority or any  
129 acquisition or construction which is financed in whole or  
130 in part from funds made available by grant or loan by, or  
131 through, the authority as provided in this article, in-  
132 cluding all buildings and facilities which the authority  
133 deems necessary for the operation of the project, together  
134 with all property, rights, easements and interests which  
135 may be required for the operation of the project.

136 (15) "Solid waste disposal shed" or "shed" means a  
137 geographical area which the West Virginia resource  
138 recovery—solid waste disposal authority designates as  
139 provided in section eight of this article for solid waste  
140 management.

**§16-26-4. West Virginia resource recovery—solid waste disposal authority and board created; organization of authority and board; appointment of board members; their term of office, compensation and expenses; director of authority.**

1 The West Virginia resource recovery—solid waste dis-  
2 posal authority is hereby created. The authority is a  
3 governmental instrumentality of the state and a body  
4 corporate. The exercise by the authority of the powers  
5 conferred on it by this article and the carrying out of its  
6 purposes and duties are essential governmental functions  
7 and for a public purpose.

8 The authority shall be controlled, managed and oper-  
9 ated by a five-member board known as the West Virginia  
10 resource recovery—solid waste disposal authority board  
11 which is hereby created. The director of the department  
12 of health shall be a member ex officio of the board. The  
13 other four members of the board shall be appointed by  
14 the governor, by and with the advice and consent of the  
15 Senate, for terms of one, two, three and four years, re-  
16 spectively. One appointee shall be a member of the West  
17 Virginia association of county officials, one a mem-  
18 ber of the West Virginia municipal league and a resident  
19 of a municipality as defined in section two, article one,  
20 chapter eight of this code, one a member of a regional  
21 council as defined in section two, article twenty-five,  
22 chapter eight of this code and one a contract solid waste  
23 hauler who holds a valid certificate of convenience and  
24 necessity issued by the public service commission. The  
25 successor of each such appointed member shall be ap-  
26 pointed for a term of four years in the same manner  
27 the original appointments were made and so that the  
28 representation on the board as set forth in this section  
29 is preserved, except that any person appointed to fill a  
30 vacancy occurring prior to the expiration of the term  
31 for which his predecessor was appointed shall be ap-  
32 pointed only for the remainder of such term. Each board  
33 member shall serve until the appointment and qualifica-  
34 tion of his successor.

35 No more than two of the appointed board members

36 may at any one time be from the same congressional  
37 district or belong to the same political party. No  
38 appointed board member may be an officer or em-  
39 ployee of the United States or this state. Appointed  
40 board members may be reappointed to serve additional  
41 terms. All members of the board shall be citizens  
42 of the state. Each appointed member of the board,  
43 before entering upon his duties, shall comply with  
44 the requirements of article one, chapter six of this  
45 code and give bond in the sum of twenty-five thousand  
46 dollars. Appointed members may be removed from the  
47 board only for the same causes as elective state officers  
48 may be removed.

49 Annually the board shall elect one of its appointed  
50 members as chairman, another as vice-chairman and  
51 appoint a secretary-treasurer, who need not be a  
52 member of the board. Three members of the board  
53 shall constitute a quorum and the affirmative vote of  
54 three members shall be necessary for any action taken  
55 by vote of the board. No vacancy in the membership  
56 of the board shall impair the rights of a quorum  
57 by such vote to exercise all the rights and perform  
58 all the duties of the board and the authority. The  
59 person appointed as secretary-treasurer shall give bond  
60 in the sum of fifty thousand dollars. If a board mem-  
61 ber is appointed as secretary-treasurer, he shall give  
62 bond in the sum of twenty-five thousand dollars in ad-  
63 dition to the bond required in the preceding para-  
64 graph.

65 The director of the department of health shall not  
66 receive any compensation for serving as a board mem-  
67 ber. Each of the four appointed members of the board  
68 shall receive compensation of fifty dollars for each day  
69 actually spent in attending meetings of the board or in  
70 the discharge of his duties as a member of the board,  
71 but not to exceed two thousand five hundred dollars in  
72 any fiscal year. Each of the five board members shall  
73 be reimbursed for all reasonable and necessary expenses  
74 actually incurred in the performance of his duties as a  
75 member of the board. All such compensation and ex-  
76 penses incurred by board members shall be payable

77 solely from funds of the authority or from funds appro-  
78 priated for such purpose by the Legislature and no li-  
79 ability or obligation shall be incurred by the authority  
80 beyond the extent to which moneys are available from  
81 funds of the authority or from such appropriation.

82 The board shall meet at least four times annually and  
83 at any time upon the call of its chairman or upon the  
84 request in writing to the chairman of three board mem-  
85 bers.

86 The board shall appoint a director of the authority.  
87 The director shall have successfully completed one full  
88 year of graduate school in the discipline of systems  
89 analysis or environmental engineering and, in addition,  
90 shall have one year of work experience in systems an-  
91 alysis and three years of work experience in solid waste  
92 management, or four years' experience in solid waste man-  
93 agement.

**§16-26-5. Authority may construct, maintain and operate  
solid waste disposal projects.**

1 To accomplish the public policy and purpose and to  
2 meet the responsibility of the state as set forth in this  
3 article, the West Virginia resource recovery—solid waste  
4 disposal authority shall designate and establish solid  
5 waste disposal sheds and it may initiate, acquire, con-  
6 struct, maintain, repair and operate solid waste disposal  
7 projects or cause the same to be operated pursuant to  
8 a lease, sublease or agreement with any person or gov-  
9 ernmental agency; may make loans and grants to per-  
10 sons and to governmental agencies for the acquisition  
11 or construction of solid waste disposal projects by such  
12 persons and governmental agencies; and may issue solid  
13 waste disposal revenue bonds of this state, payable solely  
14 from revenues, to pay the cost of, or finance, in whole or  
15 in part, by loans to governmental agencies, such projects.  
16 A solid waste disposal project shall not be undertaken  
17 unless the authority determines that the project is con-  
18 sistent with federal law, with its solid waste disposal shed  
19 plan, with the standards set by the state water resources  
20 board and the division of water resources of the depart-  
21 ment of natural resources for any waters of the state which

22 may be affected thereby, with the air quality standards set  
23 by the West Virginia air pollution control commission and  
24 with health standards set by the department of health.  
25 Any resolution of the authority providing for acquiring  
26 or constructing such projects or for making a loan or grant  
27 for such projects shall include a finding by the authority  
28 that such determinations have been made. A loan agree-  
29 ment shall be entered into between the authority and each  
30 governmental agency to which a loan is made for the ac-  
31 quisition or construction of a solid waste disposal project,  
32 which loan agreement shall include without limitation the  
33 following provisions:

34 (1) The cost of such project, the amount of the loan, the  
35 terms of repayment of such loan and the security therefor,  
36 which may include, in addition to the pledge of all  
37 revenues from such project after a reasonable allowance  
38 for operation and maintenance expenses, a deed of trust  
39 or other appropriate security instrument creating a lien  
40 on such project;

41 (2) The specific purposes for which the proceeds of  
42 the loan shall be expended, the procedures as to the  
43 disbursement of loan proceeds and the duties and obliga-  
44 tions imposed upon the governmental agency in regard  
45 to the construction or acquisition of the project;

46 (3) The agreement of the governmental agency to  
47 impose, collect, and, if required to repay the obligations  
48 of such governmental agency under the loan agreement,  
49 increase, service charges from persons using said project,  
50 which service charges shall be pledged for the repayment  
51 of such loan together with all interest, fees and charges  
52 thereon and all other financial obligations of such govern-  
53 mental agency under the loan agreement; and

54 (4) The agreement of the governmental agency to  
55 comply with all applicable laws, rules and regulations  
56 issued by the authority or other state, federal and local  
57 bodies in regard to the construction, operation, mainte-  
58 nance and use of the project.

59 The authority shall comply with all of the provisions  
60 of federal law and of article one of this chapter and any

61 rules and regulations promulgated thereunder which per-  
62 tain to solid waste collection and disposal.

**§16-26-6. Powers, duties and responsibilities of authority generally.**

1 The West Virginia resource recovery—solid waste  
2 disposal authority may exercise all powers necessary or  
3 appropriate to carry out and effectuate its corporate  
4 purpose. The authority may:

5 (1) Adopt, and from time to time, amend and repeal  
6 bylaws necessary and proper for the regulation of its  
7 affairs and the conduct of its business, and rules and  
8 regulations, promulgated pursuant to the provisions  
9 of chapter twenty-nine-a of this code, to implement  
10 and make effective its powers and duties.

11 (2) Adopt an official seal.

12 (3) Maintain a principal office which shall be in  
13 Kanawha county, and, if necessary, regional suboffices  
14 at locations properly designated or provided.

15 (4) Sue and be sued in its own name and plead and  
16 be impleaded in its own name, and particularly to en-  
17 force the obligations and covenants made under sections  
18 ten, eleven and sixteen of this article. Any actions  
19 against the authority shall be brought in the circuit  
20 court of Kanawha county.

21 (5) Make loans and grants to persons and to gov-  
22 ernmental agencies for the acquisition or construction  
23 of solid waste disposal projects and adopt rules and  
24 procedures for making such loans and grants.

25 (6) Acquire, construct, reconstruct, enlarge, improve,  
26 furnish, equip, maintain, repair, operate, lease or rent  
27 to, or contract for operation by a governmental agency  
28 or person, solid waste disposal projects, and, in ac-  
29 cordance with chapter twenty-nine-a of this code,  
30 adopt rules and regulations for the use of such proj-  
31 ects.

32 (7) Make available the use or services of any solid  
33 waste disposal project to one or more persons, one  
34 or more governmental agencies, or any combination  
35 thereof.

36 (8) Issue solid waste disposal revenue bonds and  
37 notes and solid waste disposal revenue refunding bonds  
38 of the state, payable solely from revenues as provided in  
39 section nine of this article unless the bonds are refunded  
40 by refunding bond, for the purpose of paying all or any  
41 part of the cost of or financing by loans to governmental  
42 agencies one or more solid waste disposal projects or  
43 parts thereof.

44 (9) Acquire by gift or purchase, hold and dispose of  
45 real and personal property in the exercise of its powers  
46 and the performance of its duties as set forth in this  
47 article.

48 (10) Acquire in the name of the state, by purchase or  
49 otherwise, on such terms and in such manner as it deems  
50 proper, or by the exercise of the right of eminent domain  
51 in the manner provided in chapter fifty-four of this code,  
52 such public or private lands, or parts thereof or rights  
53 therein, rights-of-way, property, rights, easements and in-  
54 terests it deems necessary for carrying out the provisions  
55 of this article, but excluding the acquisition by the exer-  
56 cise of the right of eminent domain of any solid waste dis-  
57 posal facility operated under permits issued pursuant to  
58 the provisions of article one, chapter sixteen of this code  
59 and owned by any person or governmental agency. This  
60 article does not authorize the authority to take or disturb  
61 property or facilities belonging to any public utility or to  
62 a common carrier, which property or facilities are required  
63 for the proper and convenient operation of such public  
64 utility or common carrier, unless provision is made for the  
65 restoration, relocation or duplication of such property or  
66 facilities elsewhere at the sole cost of the authority.

67 (11) Make and enter into all contracts and agreements  
68 and execute all instruments necessary or incidental to  
69 the performance of its duties and the execution of its  
70 powers. When the cost under any such contract or  
71 agreement, other than compensation for personal services,  
72 involves an expenditure of more than two thousand  
73 dollars, the authority shall make a written contract with  
74 the lowest responsible bidder after public notice pub-  
75 lished as a Class II legal advertisement in compliance

76 with the provisions of article three, chapter fifty-nine  
77 of this code, the publication area for such publication to  
78 be the county wherein the work is to be performed or  
79 which is affected by the contract, which notice shall  
80 state the general character of the work and the general  
81 character of the materials to be furnished, the place  
82 where plans and specifications therefor may be examined  
83 and the time and place of receiving bids. A contract or  
84 lease for the operation of a solid waste disposal project  
85 constructed and owned by the authority or an agreement  
86 for cooperation in the acquisition or construction of a  
87 solid waste disposal project pursuant to section sixteen  
88 of this article is not subject to the foregoing requirements  
89 and the authority may enter into such contract or lease  
90 or such agreement pursuant to negotiation and upon  
91 such terms and conditions and for such period as it finds  
92 to be reasonable and proper under the circumstances  
93 and in the best interests of proper operation or of efficient  
94 acquisition or construction of such project. The authority  
95 may reject any and all bids. A bond with good and  
96 sufficient surety, approved by the authority, shall be re-  
97 quired of all contractors in an amount equal to at least  
98 fifty percent of the contract price, conditioned upon the  
99 faithful performance of the contract.

100 (12) Employ managers, superintendents, engineers,  
101 accountants, auditors and other employees, and retain or  
102 contract with consulting engineers, financial consultants,  
103 accounting experts, architects, attorneys and such other  
104 consultants and independent contractors as are necessary  
105 in its judgment to carry out the provisions of this article,  
106 and fix the compensation or fees thereof. All expenses  
107 thereof shall be payable solely from the proceeds of  
108 solid waste disposal revenue bonds or notes issued by the  
109 authority, from revenues and from funds appropriated  
110 for such purpose by the Legislature.

111 (13) Receive and accept from any federal agency,  
112 subject to the approval of the governor, grants for or in  
113 aid of the construction of any solid waste disposal project  
114 or for research and development with respect to solid  
115 waste disposal projects and solid waste disposal sheds

116 and receive and accept from any source aid or contribu-  
117 tions of money, property, labor or other things of value,  
118 to be held, used and applied only for the purposes for  
119 which such grants and contributions are made.

120 (14) Engage in research and development with respect  
121 to solid waste disposal projects and solid waste disposal  
122 sheds.

123 (15) Purchase fire and extended coverage and liability  
124 insurance for any solid waste disposal project and for  
125 the principal office and suboffices of the authority, in-  
126 surance protecting the authority and its officers and em-  
127 ployees against liability, if any, for damage to property  
128 or injury to or death of persons arising from its opera-  
129 tions and any other insurance the authority may agree to  
130 provide under any resolution authorizing the issuance  
131 of solid waste disposal revenue bonds or in any trust  
132 agreement securing the same.

133 (16) Charge, alter and collect rentals and other  
134 charges for the use or services of any solid waste dis-  
135 posal project as provided in this article, subject to the  
136 prior approval of the public service commission of West  
137 Virginia, and charge and collect reasonable interest, fees  
138 and other charges in connection with the making and  
139 servicing of loans to governmental agencies in furtherance  
140 of the purposes of this article.

141 (17) Establish or increase reserves from moneys re-  
142 ceived or to be received by the authority to secure or  
143 to pay the principal of and interest on the bonds and  
144 notes issued by the authority pursuant to this article.

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

**§16-26-7. Power of authority to collect service charges and  
exercise other powers of governmental agencies  
in event of default; power to require governmen-  
tal agencies to enforce their rights.**

1 In order to insure that the public purposes to be  
2 served by the authority may be properly carried out and  
3 in order to assure the timely payment to the authority of

4 all sums due and owing under loan agreements with  
5 governmental agencies, as referred to in section five  
6 of this article, notwithstanding any provision to the  
7 contrary elsewhere contained in this code, in event of  
8 any default by a governmental agency under such a loan  
9 agreement, the authority shall have, and may, at its  
10 option, exercise the following rights and remedies in  
11 addition to the rights and remedies conferred by law or  
12 pursuant to said loan agreement:

13 (1) The authority may directly impose, in its own  
14 name and for its own benefit, service charges determined  
15 by it to be necessary under the circumstances upon all  
16 users of the solid waste disposal project to be acquired  
17 or constructed pursuant to such loan agreement, and  
18 proceed directly to enforce and collect such service  
19 charges, together with all necessary costs of such en-  
20 forcement and collection.

21 (2) The authority may exercise, in its own name or in  
22 the name of and as agent for the governmental agency,  
23 all of the rights, authority, powers and remedies of the  
24 governmental agency with respect to the solid waste dis-  
25 posal project or which may be conferred upon the gov-  
26 ernmental agency by statute, rule, regulation or judicial  
27 decision, including without limitation all rights and  
28 remedies with respect to users of such solid waste dis-  
29 posal project.

30 (3) The authority may, by civil action, mandamus or  
31 other judicial or administrative proceeding, compel per-  
32 formance by such governmental agency of all of the  
33 terms and conditions of such loan agreement including  
34 without limitation the adjustment and increase of service  
35 charges as required to repay the loan or otherwise satisfy  
36 the terms of such loan agreement, the enforcement and  
37 collection of such service charges and the enforcement  
38 by such governmental agency of all rights and remedies  
39 conferred by statute, rule, regulation or judicial decision.

**§16-26-8. Development and designation of solid waste disposal  
sheds by authority.**

1 Prior to beginning or raising the cost of the first solid  
2 waste disposal project and within one year of the effec-

3 tive date of this article, the authority shall divide the  
4 state into geographical areas for solid waste manage-  
5 ment which shall be known as solid waste disposal sheds.  
6 Before it designates the sheds, the authority shall con-  
7 sult with the governing bodies of the counties and mu-  
8 nicipalities in the state and obtain and evaluate their  
9 opinions as to how many sheds there should be and  
10 where their boundaries should be located. The authority  
11 shall then cause informational gathering studies and fea-  
12 sibility and cost studies to be made in order for it to  
13 designate the solid waste disposal sheds within each of  
14 which the most dependable, effective, efficient and eco-  
15 nomical solid waste disposal projects may be established.  
16 The sheds shall not overlap and shall cover the entire  
17 state.

18 Although solid waste disposal sheds may be designated  
19 by the authority without respect to political or geo-  
20 graphical boundaries, it shall consider such boundaries,  
21 regions as defined in section two, article twenty-five,  
22 chapter eight of this code, and any county or municipal  
23 comprehensive plan as defined in section three, article  
24 twenty-four, chapter eight of this code in determining  
25 the area and boundary of each shed. The authority shall  
26 designate the sheds so that:

27 (1) The goal of providing solid waste collection and  
28 disposal service to each household, business and industry  
29 in the state can reasonably be achieved.

30 (2) The total cost of solid waste collection and dis-  
31 posal and the cost of solid waste collection and disposal  
32 within each shed and per person can be kept as low as  
33 possible.

34 (3) Solid waste collection and disposal service, facili-  
35 ties and projects can be integrated in the most feasible,  
36 dependable, effective, efficient and economical manner.

**§16-26-9. Expenditure of funds for study and engineering of  
proposed projects.**

1 With the approval of the authority, the director of  
2 the department of health shall expend out of any funds  
3 available for the purpose such moneys as are necessary

4 for the study and engineering of any proposed solid waste  
5 disposal project and may use its employees and consul-  
6 tants for that purpose. All such expenses incurred by  
7 the director of the department of health prior to the  
8 issuance of solid waste disposal revenue bonds or notes  
9 under this article shall be paid by him and charged  
10 to the appropriate solid waste disposal project. The  
11 director of the department of health shall keep proper  
12 records and accounts showing the amounts so charged.  
13 Upon the sale of solid waste disposal revenue bonds or  
14 notes for a solid waste disposal project, the moneys so  
15 expended by the director of the department of health  
16 with the approval of the authority in connection with  
17 such project shall be repaid to the department of health  
18 from the proceeds of such bonds or notes.

**§16-26-10. Authority empowered to issue solid waste disposal  
revenue bonds, renewal notes and refunding  
bonds; requirements and manner of such is-  
suanee.**

1 The authority is hereby empowered to issue, from time  
2 to time, solid waste disposal revenue bonds and notes  
3 of the state in such principal amounts as the authority  
4 deems necessary to pay the cost of or finance in whole  
5 or in part by loans to governmental agencies, one or  
6 more solid waste development projects, but the ag-  
7 gregate amount of all issues of bonds and notes outstand-  
8 ing at one time for all projects authorized hereunder  
9 shall not exceed that amount capable of being serviced  
10 by revenues received from such projects, and shall not  
11 exceed in the aggregate the sum of fifty million  
12 dollars.

13 The authority may, from time to time, issue renewal  
14 notes, issue bonds to pay such notes and whenever it  
15 deems refunding expedient, refund any bonds by the is-  
16 suanee of solid waste disposal revenue refunding bonds  
17 of the state. Except as may otherwise be expressly pro-  
18 vided in this article or by the authority, every issue  
19 of its bonds or notes shall be obligations of the author-  
20 ity payable out of the revenues and reserves created  
21 for such purposes by the authority, which are pledged

22 for such payment, without preference or priority of  
23 the first bonds issued, subject only to any agreements  
24 with the holders of particular bonds or notes pledg-  
25 ing any particular revenues. Such pledge shall be  
26 valid and binding from the time the pledge is made  
27 and the revenue so pledged and thereafter received  
28 by the authority shall immediately be subject to the  
29 lien of such pledge without any physical delivery  
30 thereof or further act and the lien of any such  
31 pledge shall be valid and binding as against all  
32 parties having claims of any kind in tort, contract or  
33 otherwise against the authority irrespective of whether  
34 such parties have notice thereof. All such bonds and  
35 notes shall have all the qualities of negotiable instru-  
36 ments.

37 The bonds and notes shall be authorized by resolution  
38 of the authority, shall bear such dates and shall mature at  
39 such times, in the case of any such note or any renewals  
40 thereof not exceeding five years from the date of issue of  
41 such original note, and in the case of any such bond not  
42 exceeding fifty years from the date of issue, as such  
43 resolution may provide. The bonds and notes shall bear  
44 interest at such rate, be in such denominations, be in such  
45 form, either coupon or registered, carry such registration  
46 privileges, be payable in such medium of payment, at such  
47 place and be subject to such terms of redemption as the  
48 authority may authorize. The authority may sell such  
49 bonds and notes at public or private sale, at the price the  
50 authority determines. The bonds and notes shall be  
51 executed by the chairman and vice-chairman of the  
52 authority, both of whom may use facsimile signatures.  
53 The official seal of the authority or a facsimile thereof  
54 shall be affixed thereto or printed thereon and attested,  
55 manually or by facsimile signature, by the secretary-  
56 treasurer of the authority, and any coupons attached  
57 thereto shall bear the signature or facsimile signature of  
58 the chairman of the authority. In case any officer whose  
59 signature, or a facsimile of whose signature, appears on  
60 any bonds, notes or coupons ceases to be such officer be-  
61 fore delivery of such bonds or notes, such signature or  
62 facsimile is nevertheless sufficient for all purposes the

63 same as if he had remained in office until such delivery  
64 and, in case the seal of the authority has been changed  
65 after a facsimile has been imprinted on such bonds or  
66 notes, such facsimile seal will continue to be sufficient  
67 for all purposes.

68 Any resolution authorizing any bonds or notes or any  
69 issue thereof may contain provisions (subject to such  
70 agreements with bondholders or noteholders as may then  
71 exist, which provisions shall be a part of the contract  
72 with the holders thereof) as to pledging all or any part of  
73 the revenues of the authority to secure the payment of  
74 the bonds or notes or of any issue thereof; the use and  
75 disposition of revenues of the authority; a covenant to fix,  
76 alter and collect rentals, fees, service charges and other  
77 charges so that pledged revenues will be sufficient to pay  
78 the costs of operation, maintenance and repairs, pay prin-  
79 cipal of and interest on bonds or notes secured by the  
80 pledge of such revenues and provide such reserves as  
81 may be required by the applicable resolution or trust  
82 agreement; the setting aside of reserve funds, sinking  
83 funds or replacement and improvement funds and the  
84 regulation and disposition thereof; the crediting of the  
85 proceeds of the sale of bonds or notes to and among the  
86 funds referred to or provided for in the resolution  
87 authorizing the issuance of the bonds or notes; the use,  
88 lease, sale or other disposition of any solid waste disposal  
89 project or any other assets of the authority; limitations  
90 on the purpose to which the proceeds of sale of bonds or  
91 notes may be applied and pledging such proceeds to  
92 secure the payment of the bonds or notes or of any issue  
93 thereof; agreement of the authority to do all things  
94 necessary for the authorization, issuance and sale of bonds  
95 in such amounts as may be necessary for the timely re-  
96 tirement of notes issued in anticipation of the issuance  
97 of bonds; limitations on the issuance of additional bonds  
98 or notes; the terms upon which additional bonds or notes  
99 may be issued and secured; the refunding of outstanding  
100 bonds or notes; the procedure, if any, by which the terms  
101 of any contract with bondholders or noteholders may be  
102 amended or abrogated, the holders of which must consent  
103 thereto, and the manner in which such consent may be

104 given; limitations on the amount of moneys to be ex-  
105 pended by the authority for operating, administrative or  
106 other expenses of the authority; securing any bonds or  
107 notes by a trust agreement; and any other matters, of  
108 like or different character, which in any way affect the  
109 security or protection of the bonds or notes.

110 In the event that the sum of all reserves pledged to  
111 the payment of such bonds or notes shall be less than  
112 the minimum reserve requirements established in any  
113 resolution or resolutions authorizing the issuance of such  
114 bonds or notes, the chairman of the authority shall  
115 certify, on or before the first day of December of each  
116 year, the amount of such deficiency to the governor of  
117 the state, for inclusion, if the governor shall so elect,  
118 of the amount of such deficiency in the budget to be  
119 submitted to the next session of the Legislature for  
120 appropriation to the authority to be pledged for pay-  
121 ment of such bonds or notes: *Provided*, That the Legis-  
122 lature shall not be required to make any appropriation  
123 so requested, and the amount of such deficiencies shall  
124 not constitute a debt or liability of the state.

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

**§16-26-11. Trustee for bondholders; contents of trust agree-  
ment.**

1 In the discretion of the authority, any solid waste  
2 disposal revenue bonds or notes or solid waste disposal  
3 revenue refunding bonds issued by the authority under  
4 this article may be secured by a trust agreement between  
5 the authority and a corporate trustee, which trustee may  
6 be any trust company or banking institution having the  
7 powers of a trust company within or without this state.

8 Any such trust agreement may pledge or assign rev-  
9 enues of the authority to be received, but shall not convey  
10 or mortgage any solid waste disposal project or any part  
11 thereof. Any such trust agreement or any resolution pro-  
12 viding for the issuance of such bonds or notes may  
13 contain such provisions for protecting and enforcing the

14 rights and remedies of the bondholders or noteholders as  
15 are reasonable and proper and not in violation of law,  
16 including the provisions contained in section nine of this  
17 article, covenants setting forth the duties of the au-  
18 thority in relation to the acquisition of property, the  
19 construction, improvement, maintenance, repair, opera-  
20 tion and insurance of the solid waste disposal project,  
21 the cost of which is paid in whole or in part from the  
22 proceeds of such bonds or notes, the rentals or other  
23 charges to be imposed for the use or services of any solid  
24 waste disposal project, provisions with regard to the  
25 payment of the principal of and interest, charges and fees  
26 on loans made to governmental agencies from the proceeds  
27 of such bonds or notes, the custody, safeguarding, and  
28 application of all moneys and provisions for the employ-  
29 ment of consulting engineers in connection with the con-  
30 struction or operation of such solid waste disposal project.  
31 Any banking institution or trust company incorporated  
32 under the laws of this state which may act as depository  
33 of the proceeds of bonds or notes or of revenues shall  
34 furnish such indemnifying bonds or pledge such securities  
35 as are required by the authority. Any such trust agree-  
36 ment may set forth the rights and remedies of the bond-  
37 holders and noteholders and of the trustee and may re-  
38 strict individual rights of action by bondholders and note-  
39 holders as customarily provided in trust agreements or  
40 trust indentures securing similar bonds. Such trust agree-  
41 ment may contain such other provisions as the authority  
42 deems reasonable and proper for the security of the  
43 bondholders or noteholders. All expenses incurred in  
44 carrying out the provisions of any such trust agreement  
45 may be treated as a part of the cost of the operation of  
46 the solid waste disposal project. Any such trust agree-  
47 ment or resolution authorizing the issuance of solid waste  
48 disposal revenue bonds may provide the method whereby  
49 the general administrative overhead expenses of the  
50 authority shall be allocated among the several projects  
51 acquired or constructed by it as a factor of the operating  
52 expenses of each such project.

**§16-26-12. Legal remedies of bondholders and trustees.**

1 Any holder of solid waste disposal revenue bonds is-  
2 sued under the authority of this article or any of the  
3 coupons appertaining thereto and the trustee under any  
4 trust agreement, except to the extent the rights given  
5 by this article may be restricted by the applicable resolu-  
6 tion or such trust agreement, may by civil action, man-  
7 damus or other proceeding, protect and enforce any rights  
8 granted under the laws of this state or granted under  
9 this article, by the trust agreement or by the resolution  
10 authorizing the issuance of such bonds, and may enforce  
11 and compel the performance of all duties required by  
12 this article, or by the trust agreement or resolution, to  
13 be performed by the authority or any officer or employee  
14 thereof, including the fixing, charging and collecting of  
15 sufficient rentals, fees, service charges or other charges.

**§16-26-13. Bonds and notes not debt of state, county, municipi-  
pality or of any political subdivision; expenses  
incurred pursuant to article.**

1 Solid waste disposal revenue bonds and notes and solid  
2 waste disposal revenue refunding bonds issued under  
3 authority of this article and any coupons in connection  
4 therewith shall not constitute a debt or a pledge of the  
5 faith and credit or taxing power of this state or of any  
6 county, municipality or any other political subdivision  
7 of this state, and the holders or owners thereof shall  
8 have no right to have taxes levied by the Legislature or  
9 taxing authority of any county, municipality or any other  
10 political subdivision of this state for the payment of the  
11 principal thereof or interest thereon, but such bonds and  
12 notes shall be payable solely from the revenues and funds  
13 pledged for their payment as authorized by this article  
14 unless the notes are issued in anticipation of the issuance  
15 of bonds or the bonds are refunded by refunding bonds  
16 issued under authority of this article, which bonds or  
17 refunding bonds shall be payable solely from revenues  
18 and funds pledged for their payment as authorized by  
19 this article. All such bonds and notes shall contain on  
20 the face thereof a statement to the effect that the bonds  
21 or notes, as to both principal and interest, are not debts

22 of the state or any county, municipality or political sub-  
23 division thereof, but are payable solely from revenues  
24 and funds pledged for their payment.

25 All expenses incurred in carrying out the provisions  
26 of this article shall be payable solely from funds provided  
27 under authority of this article. This article does not  
28 authorize the authority to incur indebtedness or liability  
29 on behalf of or payable by the state or any county, mu-  
30 nicipality or political subdivision thereof.

**§16-26-14. Use of funds by authority; restrictions thereon.**

1 All moneys, properties and assets acquired by the au-  
2 thority, whether as proceeds from the sale of solid waste  
3 disposal revenue bonds or as revenues or otherwise, shall  
4 be held by it in trust for the purposes of carrying out its  
5 powers and duties, and shall be used and reused in ac-  
6 cordance with the purposes and provisions of this article.  
7 Such moneys shall at no time be commingled with other  
8 public funds. Such moneys, except as otherwise provided  
9 in any resolution authorizing the issuance of solid waste  
10 disposal revenue bonds or in any trust agreement se-  
11 curing the same, or except when invested pursuant to  
12 section fourteen of this article, shall be kept in appro-  
13 priate depositories and secured as provided and required  
14 by law. The resolution authorizing the issuance of such  
15 bonds of any issue or the trust agreement securing such  
16 bonds shall provide that any officer to whom, or any  
17 banking institution or trust company to which, such  
18 moneys are paid shall act as trustee of such moneys and  
19 hold and apply them for the purposes hereof, subject to  
20 the conditions this article and such resolution or trust  
21 agreement provide.

**§16-26-15. Investment of funds by authority.**

1 The authority is hereby authorized and empowered to  
2 invest any funds not needed for immediate disbursement  
3 in any of the following securities:

4 (1) Direct obligations of or obligations guaranteed by  
5 the United States of America;

6 (2) Bonds, debentures, notes or other evidences of  
7 indebtedness issued by any of the following agencies:

8 Banks for cooperatives; federal intermediate credit banks;  
9 federal home loan bank system; Export-Import Bank of  
10 the United States; federal land banks; the Federal Na-  
11 tional Mortgage Association or the Government National  
12 Mortgage Association;

13 (3) Public housing bonds issued by public agencies or  
14 municipalities and fully secured as to the payment of  
15 both principal and interest by a pledge of annual contri-  
16 butions under an annual contributions contract or con-  
17 tracts with the United States of America; or temporary  
18 notes issued by public agencies or municipalities or pre-  
19 liminary loan notes issued by public agencies or munici-  
20 palities, in each case, fully secured as to the payment of  
21 both principal and interest by a requisition or payment  
22 agreement with the United States of America;

23 (4) Certificates of deposit secured by obligations of  
24 the United States of America;

25 (5) Direct obligations of or obligations guaranteed by  
26 the state of West Virginia;

27 (6) Direct and general obligations of any other state  
28 within the territorial United States, to the payment of  
29 the principal of and interest on which the full faith and  
30 credit of such state is pledged: *Provided*, That at the time  
31 of their purchase, such obligations are rated in either  
32 of the two highest rating categories by a nationally  
33 recognized bond-rating agency.

34 Funds of the authority in excess of current needs, ex-  
35 cept as otherwise provided in any resolution authorizing  
36 the issuance of its solid waste disposal revenue bonds or  
37 in any trust agreement securing the same, may be in-  
38 vested by the authority in any security or securities in  
39 which the West Virginia state board of investments is  
40 authorized to invest under sections nine and ten, article  
41 six, chapter twelve of this code, except those securities  
42 specified in subdivisions (f) and (g) of said section nine.  
43 Income from all such investments of moneys in any fund  
44 shall be credited to such funds as the authority deter-  
45 mines, subject to the provisions of any such resolution  
46 or trust agreement and such investments may be sold at  
47 such times as the authority determines.

**§16-26-16. Rentals, fees, service charges and other revenues from solid waste disposal projects; contracts and leases of authority; cooperation of other governmental agencies; bonds of such agencies.**

1 This section shall apply to any solid waste disposal proj-  
2 ect or projects which are owned in whole or in part by  
3 the authority.

4 The authority may charge, alter and collect rentals, fees,  
5 service charges or other charges for the use or services of  
6 any solid waste disposal project, and contract in the man-  
7 ner provided by this section with one or more persons, one  
8 or more governmental agencies, or any combination  
9 thereof, desiring the use or services thereof, and fix the  
10 terms, conditions, rentals, fees, service charges or other  
11 charges for such use or services. Such rentals, fees, ser-  
12 vice charges or other charges shall not be subject to su-  
13 pervision or regulation by any other authority, depart-  
14 ment, commission, board, bureau or agency of the state,  
15 and such contract may provide for acquisition by such  
16 person or governmental agency of all or any part of such  
17 solid waste disposal project for such consideration payable  
18 over the period of the contract or otherwise as the author-  
19 ity in its sole discretion determines to be appropriate, but  
20 subject to the provisions of any resolution authorizing the  
21 issuance of solid waste disposal revenue bonds or notes or  
22 solid waste disposal revenue refunding bonds of the au-  
23 thority or any trust agreement securing the same. Any  
24 governmental agency which has power to construct, oper-  
25 ate and maintain solid waste disposal facilities may enter  
26 into a contract or lease with the authority whereby the  
27 use or services of any solid waste disposal project of the  
28 authority will be made available to such governmental  
29 agency and pay for such use or services such rentals, fees,  
30 service charges or other charges as may be agreed to by  
31 such governmental agency and the authority.

32 Any governmental agency or agencies or combination  
33 thereof may cooperate with the authority in the acquisi-  
34 tion or construction of a solid waste disposal project and  
35 shall enter into such agreements with the authority as are  
36 necessary, with a view to effective cooperative action and  
37 safeguarding of the respective interests of the parties

38 thereto, which agreements shall provide for such con-  
39 tributions by the parties thereto in such proportion as  
40 may be agreed upon and such other terms as may be  
41 mutually satisfactory to the parties, including without  
42 limitation the authorization of the construction of the  
43 project by one of the parties acting as agent for all of  
44 the parties and the ownership and control of the project  
45 by the authority to the extent necessary or appropriate  
46 for purposes of the issuance of solid waste disposal reve-  
47 nue bonds by the authority. Any governmental agency  
48 may provide such contribution as is required under such  
49 agreements by the appropriation of money or, if autho-  
50 rized by a favorable vote of the electors to issue bonds or  
51 notes or levy taxes or assessments and issue notes or  
52 bonds in anticipation of the collection thereof, by the  
53 issuance of bonds or notes or by the levying of taxes or  
54 assessments and the issuance of bonds or notes in antici-  
55 pation of the collection thereof, and by the payment of  
56 such appropriated money or the proceeds of such bonds  
57 or notes to the authority pursuant to such agreements.

58 Any governmental agency, pursuant to a favorable vote  
59 of the electors in an election held before or after the  
60 effective date of this section for the purpose of issuing  
61 bonds to provide funds to acquire, construct or equip, or  
62 provide real estate and interests in real estate for a  
63 solid waste disposal project, whether or not the govern-  
64 mental agency at the time of such election had the au-  
65 thority to pay the proceeds from such bonds or notes  
66 issued in anticipation thereof to the authority as pro-  
67 vided in this section, may issue such bonds or notes in  
68 anticipation of the issuance thereof and pay the proceeds  
69 thereof to the authority in accordance with an agreement  
70 between such governmental agency and the authority:  
71 *Provided*, That the legislative authority of the govern-  
72 mental agency finds and determines that the solid waste  
73 disposal project to be acquired or constructed by the  
74 authority in cooperation with such governmental agency  
75 will serve the same public purpose and meet substantially  
76 the same public need as the project otherwise proposed  
77 to be acquired or constructed by the governmental  
78 agency with the proceeds of such bonds or notes.

**§16-26-17. Maintenance, operation and repair of projects; reports by authority to governor and Legislature.**

1 Each solid waste development project, when constructed  
2 and placed in operation, shall be maintained and kept in  
3 good condition and repair by the authority or if owned  
4 by a governmental agency, by such governmental agency,  
5 or the authority or such governmental agency shall cause  
6 the same to be maintained and kept in good condition and  
7 repair. Each such project owned by the authority shall  
8 be operated by such operating employees as the authority  
9 employs or pursuant to a contract or lease with a gov-  
10 ernmental agency or person. All public or private prop-  
11 erty damaged or destroyed in carrying out the provision  
12 of this article and in the exercise of the powers granted  
13 hereunder with regard to any project shall be restored  
14 or repaired and placed in its original condition, as nearly  
15 as practicable, or adequate compensation made therefor  
16 out of funds provided in accordance with the provisions  
17 of this article.

18 As soon as possible after the close of each fiscal year,  
19 the authority shall make an annual report of its activi-  
20 ties for the preceding fiscal year to the governor and  
21 the Legislature. Each such report shall set forth a com-  
22 plete operating and financial statement covering the  
23 authority's operations during the preceding fiscal year.  
24 The authority shall cause an audit of its books and  
25 accounts to be made at least once each fiscal year by  
26 certified public accountants and the cost thereof may be  
27 treated as a part of the cost of construction or of opera-  
28 tion of its projects. A report of the audit shall be sub-  
29 mitted to the governor and the Legislature.

**§16-26-18. Solid waste disposal revenue bonds lawful invest-  
ments.**

1 The provisions of sections ten and eleven, article six,  
2 chapter twelve of this code notwithstanding, all solid  
3 waste disposal revenue bonds issued pursuant to this  
4 article shall be lawful investments for the West Vir-  
5 ginia state board of investments and shall also be lawful  
6 investments for financial institutions as defined in section

7 two, article one, chapter thirty-one-a of this code, and for  
8 insurance companies.

**§16-26-19. Exemption from taxation.**

1 The authority shall not be required to pay any taxes or  
2 assessments upon any solid waste disposal project or  
3 upon any property acquired or used by the authority  
4 or upon the income therefrom. Bonds and notes issued  
5 by the authority and all interest and income thereon  
6 shall be exempt from all taxation by this state, or any  
7 county, municipality, political subdivision or agency  
8 thereof, except inheritance taxes.

**§16-26-20. Governmental agencies authorized to convey property.**

1 All governmental agencies, notwithstanding any pro-  
2 vision of law to the contrary, may lease, lend, grant or  
3 convey to the authority, at its request, upon such terms  
4 as the proper authorities of such governmental agencies  
5 deem reasonable and fair and without the necessity for  
6 an advertisement, auction, order of court or other action  
7 or formality, other than the regular and formal action  
8 of the governmental agency concerned, any real property  
9 or interests therein, including improvements thereto or  
10 personal property which is necessary or convenient to the  
11 effectuation of the authorized purposes of the authority,  
12 including public roads and other real property or interests  
13 therein, including improvements thereto or personal prop-  
14 erty already devoted to public use.

**§16-26-21. Financial interest in contracts prohibited; penalty.**

1 No officer, member or employee of the authority may  
2 be financially interested, directly or indirectly, in any  
3 contract of any person with the authority, or in the sale  
4 of any property, real or personal, to or by the authority.  
5 This section does not apply to contracts or purchases of  
6 property, real or personal, between the authority and  
7 any governmental agency.

8 No officer, member or employee of the authority may  
9 have or acquire any financial interest, either direct or

10 indirect, in any project or activity of the authority or in  
11 any services or material to be used or furnished in con-  
12 nection with any project or activity of the authority.  
13 If an officer, member or employee of the authority has  
14 any such interest at the time he becomes an officer, mem-  
15 ber or employee of the authority, he shall disclose and  
16 divest himself of it. Failure to do so shall be cause for  
17 dismissal from the position he holds with the authority.  
18 No officer, member or employee of the authority may  
19 accept a gratuity from any person doing business with  
20 the authority or from any person for the purpose of  
21 gaining favor with the authority.

22 Any officer, member or employee of the authority who  
23 has any financial interest prohibited by this section or  
24 who fails to comply with its provisions shall be guilty of  
25 a misdemeanor, and, upon conviction thereof, shall be  
26 fined not more than one thousand dollars, or imprisoned  
27 in the county jail not more than one year, or both fined  
28 and imprisoned.

**§16-26-22. Meetings and records of authority to be open to public with certain exceptions.**

1 The authority shall comply with all of the requirements  
2 in article nine-a, chapter six of this code. Notwithstand-  
3 ing the provisions of subsection (b), section four of said  
4 article, all meetings of the authority shall be open to  
5 the public and the records of the authority shall be open  
6 to public inspection at all reasonable times, except the  
7 authority may, at its discretion for any reason set forth  
8 in subsection (a), section four of said article, or when  
9 a secret process or secret method of manufacture or pro-  
10 duction will be discussed, hold a closed meeting and  
11 make a decision in such meeting, and records or infor-  
12 mation pertaining to any such closed meeting, process  
13 or method of manufacture or production, whether ob-  
14 tained in closed meeting or at another time, are con-  
15 fidential and shall not be disclosed by any officer, member  
16 or employee of the authority or any person acting under  
17 authority of this article.

**§16-26-23. Regulation of solid waste collectors and haulers to continue under public service commission; bringing about their compliance with solid waste disposal shed plan and solid waste disposal projects.**

1 Solid waste collectors and haulers who are “common  
2 carriers by motor vehicle”, as defined in section two,  
3 article one, chapter twenty-four-a of this code, shall  
4 continue to be regulated by the public service commis-  
5 sion in accordance with the provisions of chapter twenty-  
6 four-a and rules and regulations promulgated thereunder.  
7 Nothing in this article shall give the authority any power  
8 or right to regulate such solid waste collectors and haulers  
9 in any manner, but the public service commission, when  
10 it issues a new certificate of convenience and necessity, or  
11 when it alters or adjusts the provisions of any existing  
12 certificate of convenience and necessity, or when it ap-  
13 proves the assignment or transfer of any certificate of  
14 convenience and necessity, shall consult with the author-  
15 ity regarding what action it could take which would  
16 most likely further the implementation of the authority’s  
17 solid waste disposal shed plan and solid waste disposal  
18 projects and shall take any reasonable action that will  
19 lead to or bring about compliance of such waste collectors  
20 and haulers with such plan and projects.

21 At any hearing conducted by the public service com-  
22 mission pertaining to solid waste collectors and haulers  
23 on any of these matters, any member of the board, the  
24 director or an employee of the board designated by the  
25 director may appear before the commission and present  
26 evidence.

**§16-26-24. Cooperation of authority and enforcement agencies in collecting and disposing of abandoned household appliances and motor vehicles, etc.**

1 The provisions of this article are complementary to  
2 those contained in article twenty-four, chapter seventeen  
3 of this code, and do not alter or diminish the authority of  
4 any enforcement agency, as defined in section two thereof,  
5 to collect and dispose of abandoned household appliances  
6 and motor vehicles, inoperative household appliances and

7 junked motor vehicles and parts thereof, including tires.  
8 The authority and such enforcement agencies shall co-  
9 operate fully with each other in collecting and disposing  
10 of such solid waste.

**§16-26-25. Liberal construction of article.**

1 The provisions of this article are hereby declared to  
2 be remedial and shall be liberally construed to effectuate  
3 its purposes and intents.

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

James L. Davis  
Chairman Senate Committee

Charles C. Chestnut Jr  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1977.

J. Dillon, Jr.  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

W. T. Brattain Jr  
President of the Senate

Donald L. Kopp  
Speaker House of Delegates

The within is approved this the 27  
day of April, 1977.

John P. Ruffner  
Governor

APPROVED AND SIGNED BY THE GOVERNOR

Date April 27, 1977

Time 11:40 A.M.

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OFFICE OF THE GOVERNOR

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