WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED

(SENATE BILL NO. 219)

(By Mr. A.B. & Mr. R.H.)

PASSED April 9, 1977

In Effect July 1, 1977

No. 219
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
collection 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.

This article shall be known and cited as the "West
Virginia Resource Recovery—Solid Waste Disposal
Authority Act."

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

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

Further, the Legislature finds that governmental
agencies in the state and the private sector do not have
the financial and other resources needed to provide for
the proper collection and disposal of solid waste; that
solid waste disposal sheds and projects must be estab-
lished on a relatively large scale to be economically
feasible and stable; and that proper solid waste collection
and disposal at the lowest minimum cost can only be
achieved through comprehensive solid waste manage-
ment.
It is declared to be the public policy and a responsibility of this state to assist efforts of governmental agencies and the private sector to provide for the proper collection, disposal and recycling of solid waste and to solve and prevent the problems set forth in this article. It is the purpose and intent of the Legislature in enacting this article to provide for the necessary, dependable, effective and efficient collection, disposal and recycling of solid waste and to assist and cooperate with governmental agencies and the private sector in achieving all the purposes set forth in this article, and to encourage the recycling or extraction of recoverable resources from such solid waste.

The Legislature finds that the public policy and responsibility of the state as set forth in this section cannot be effectively attained without the funding, establishment, operation and maintenance of solid waste disposal projects as provided in this article.

§16-26-3. Definitions.

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

1. “Authority” means the West Virginia resource recovery—solid waste disposal authority created in section four of this article, the duties, powers, responsibilities and functions of which are specified in this article.

2. “Board” means the West Virginia resource recovery—solid waste disposal authority board created in section four of this article, which shall manage and control the West Virginia resource recovery—solid waste disposal authority as provided in this article.

3. “Bond” or “solid waste disposal revenue bond” means a revenue bond or note issued by the West Virginia resource recovery—solid waste disposal authority to effect the intents and purposes of this article.

4. “Construction” includes reconstruction, enlargement, improvement and providing furnishings or equipment for a solid waste disposal project.

5. “Cost” means, as applied to solid waste disposal projects, the cost of their acquisition and construction;
the cost of acquisition of all land, rights-of-way, property, rights, easements, franchise rights and interests required by the authority for such acquisition and construction; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved; the cost of diverting highways, interchange of highways and access roads to private property, including the cost of land or easements therefor; the cost of all machinery, furnishings and equipment; all financing charges and interest prior to and during construction and for no more than eighteen months after completion of construction; the cost of all engineering services and all expenses of research and development with respect to solid waste disposal facilities; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost and revenues; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such project; all administrative expenses and such other expenses as may be necessary or incident to the acquisition or construction of the project; the financing of such acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of solid waste disposal revenue bonds to be paid into any special funds from the proceeds of such bonds; and the financing of the placing of any such project in operation. Any obligation or expenses incurred after the effective date of this article by any governmental agency, with the approval of the authority, for surveys, borings, preparation of plans and specifications and other engineering services in connection with the acquisition or construction of a project shall be regarded as a part of the cost of such project and shall be reimbursed out of the proceeds of loans or solid waste disposal revenue bonds as authorized by the provisions of this article.

(6) "Governmental agency" means the state government or any agency, department, division or unit thereof; counties; municipalities; watershed improvement districts; soil conservation districts; sanitary districts; public ser-
vice districts; drainage districts; regional governmental
authorities and any other governmental agency, entity,
political subdivision, public corporation or agency having
the authority to acquire, construct or operate solid waste
disposal facilities; the United States government or any
agency, department, division or unit thereof; and any
agency, commission or authority established pursuant to
an interstate compact or agreement.

(7) “Industrial waste” means any solid waste substance
resulting from or incidental to any process of industry,
manufacturing, trade or business, or from or incidental to
the development, processing or recovery of any natural
resource.

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

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

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

(11) “Revenue” means any money or thing of value
collected by, or paid to, the West Virginia resource
recovery—solid waste disposal authority as rent, use fee,
service charge or other charge for use of, or in connection
with, any solid waste disposal project, or as principal of
or interest, charges or other fees on loans, or any other
collections on loans made by the West Virginia solid
waste disposal authority to governmental agencies to
finance in whole or in part the acquisition or construction
of any solid waste development project or projects, or other money or property which is received and may be expended for or pledged as revenues pursuant to this article.

(12) "Solid waste" means all putrescible and non-putrescible solid waste substances, except human excreta, including but not limited to garbage, rubbish, ashes, incinerator residue, street refuse, dead animals, demolition and construction waste, vehicles and parts thereof, tires, appliances, sewage plant sludge, commercial and industrial waste and special waste, including but not limited to explosives, pathological waste and radioactive material, except those commercial and industrial wastes and special wastes which are under the control of the department of natural resources or the West Virginia air pollution control commission, or both, or of the United States government.

(13) "Solid waste disposal facility" means any method, system or facility to collect, transport, treat, neutralize, dispose of, stabilize, segregate, recover, recycle or hold solid waste, including without limiting the generality of the foregoing, the equipment, furnishings and appurtenances thereof.

(14) "Solid waste disposal project" or "project" means any solid waste disposal facility the acquisition or construction of which is authorized by the West Virginia resource recovery—solid waste disposal authority or any acquisition or construction which is financed in whole or in part from funds made available by grant or loan by, or through, the authority as provided in this article, including all buildings and facilities which the authority deems necessary for the operation of the project, together with all property, rights, easements and interests which may be required for the operation of the project.

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

The West Virginia resource recovery—solid waste disposal authority is hereby created. The authority is a governmental instrumentality of the state and a body corporate. The exercise by the authority of the powers conferred on it by this article and the carrying out of its purposes and duties are essential governmental functions and for a public purpose.

The authority shall be controlled, managed and operated by a five-member board known as the West Virginia resource recovery—solid waste disposal authority board which is hereby created. The director of the department of health shall be a member ex officio of the board. The other four members of the board shall be appointed by the governor, by and with the advice and consent of the Senate, for terms of one, two, three and four years, respectively. One appointee shall be a member of the West Virginia association of county officials, one a member of the West Virginia municipal league and a resident of a municipality as defined in section two, article one, chapter eight of this code, one a member of a regional council as defined in section two, article twenty-five, chapter eight of this code and one a contract solid waste hauler who holds a valid certificate of convenience and necessity issued by the public service commission. The successor of each such appointed member shall be appointed for a term of four years in the same manner the original appointments were made and so that the representation on the board as set forth in this section is preserved, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Each board member shall serve until the appointment and qualification of his successor.

No more than two of the appointed board members
may at any one time be from the same congressional
district or belong to the same political party. No
appointed board member may be an officer or em-
ployee of the United States or this state. Appointed
board members may be reappointed to serve additional
terms. All members of the board 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. Appointed members may be removed from the
board only for the same causes as elective state officers
may be removed.

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

The director of the department of health shall not
receive any compensation for serving as a board mem-
er. Each of the four appointed members of the board
shall receive compensation of fifty dollars for each day
actually spent in attending meetings of the board or in
the discharge of his duties as a member of the board,
but not to exceed two thousand five hundred dollars in
any fiscal year. Each of the five board members shall
be reimbursed for all reasonable and necessary expenses
actually incurred in the performance of his duties as a
member of the board. All such compensation and ex-
penses incurred by board members 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 appropriation.

The board shall meet at least four times annually and at any time upon the call of its chairman or upon the request in writing to the chairman of three board members.

The board shall appoint a director of the authority. The director shall have successfully completed one full year of graduate school in the discipline of systems analysis or environmental engineering and, in addition, shall have one year of work experience in systems analysis and three years of work experience in solid waste management, or four years' experience in solid waste management.

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

To accomplish the public policy and purpose and to meet the responsibility of the state as set forth in this article, the West Virginia resource recovery—solid waste disposal authority shall designate and establish solid waste disposal sheds and it may initiate, acquire, construct, maintain, repair and operate solid waste disposal projects or cause the same to be operated pursuant to a lease, sublease or agreement with any person or governmental agency; may make loans and grants to persons and to governmental agencies for the acquisition or construction of solid waste disposal projects by such persons and governmental agencies; and may issue solid waste disposal revenue bonds of this state, payable solely from revenues, to pay the cost of, or finance, in whole or in part, by loans to governmental agencies, such projects. A solid waste disposal project shall not be undertaken unless the authority determines that the project is consistent with federal law, with its solid waste disposal shed plan, with the standards set by the state water resources board and the division of water resources of the department of natural resources for any waters of the state which
may be affected thereby, with the air quality standards set by the West Virginia air pollution control commission and with health standards set by the department of health. Any resolution of the authority providing for acquiring or constructing such projects or for making a loan or grant for such projects shall include a finding by the authority that such determinations have been made. A loan agreement shall be entered into between the authority and each governmental agency to which a loan is made for the acquisition or construction of a solid waste disposal project, which loan agreement shall include without limitation the following provisions:

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

(2) The specific purposes for which the proceeds of the loan shall be expended, the procedures as to the disbursement of loan proceeds and the duties and obligations imposed upon the governmental agency in regard to the construction or acquisition of the project;

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

(4) The agreement of the governmental agency to comply with all applicable laws, rules and regulations issued by the authority or other state, federal and local bodies in regard to the construction, operation, maintenance and use of the project.

The authority shall comply with all of the provisions of federal law and of article one of this chapter and any
§16-26-6. Powers, duties and responsibilities of authority generally.

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

   (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, promulgated pursuant to the provisions of chapter twenty-nine-a of this code, to implement and make effective its powers and duties.

   (2) Adopt an official seal.

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

   (4) Sue and be sued in its own name and plead and be impleaded in its own name, and particularly to enforce the obligations and covenants made under sections ten, eleven and sixteen of this article. Any actions against the authority shall be brought in the circuit court of Kanawha county.

   (5) Make loans and grants to persons and to governmental agencies for the acquisition or construction of solid waste disposal projects and adopt rules and procedures for making such loans and grants.

   (6) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to, or contract for operation by a governmental agency or person, solid waste disposal projects, and, in accordance with chapter twenty-nine-a of this code, adopt rules and regulations for the use of such projects.

   (7) Make available the use or services of any solid waste disposal project to one or more persons, one or more governmental agencies, or any combination thereof.
(8) Issue solid waste disposal revenue bonds and notes and solid waste disposal revenue refunding bonds of the state, payable solely from revenues as provided in section nine of this article unless the bonds are refunded by refunding bond, for the purpose of paying all or any part of the cost of or financing by loans to governmental agencies one or more solid waste disposal projects or parts thereof.

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

(10) Acquire in the name of the state, by purchase or otherwise, on such terms and in such manner as it deems proper, or by the exercise of the right of eminent domain in the manner provided in chapter fifty-four of this code, such public or private lands, or parts thereof or rights therein, rights-of-way, property, rights, easements and interests it deems necessary for carrying out the provisions of this article, but excluding the acquisition by the exercise of the right of eminent domain of any solid waste disposal facility operated under permits issued pursuant to the provisions of article one, chapter sixteen of this code and owned by any person or governmental agency. This article does not authorize the authority to take or disturb property or facilities belonging to any public utility or to a common carrier, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the authority.

(11) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers. When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than two thousand dollars, the authority shall make a written contract with the lowest responsible bidder after public notice published as a Class II legal advertisement in compliance
with the provisions of article three, chapter fifty-nine
of this code, the publication area for such publication to
be the county wherein the work is to be performed or
which is affected by the contract, which notice shall
state the general character of the work and the general
character of the materials to be furnished, the place
where plans and specifications therefor may be examined
and the time and place of receiving bids. A contract or
lease for the operation of a solid waste disposal project
constructed and owned by the authority or an agreement
for cooperation in the acquisition or construction of a
solid waste disposal project pursuant to section sixteen
of this article is not subject to the foregoing requirements
and the authority may enter into such contract or lease
or such agreement pursuant to negotiation and upon
such terms and conditions and for such period as it finds
to be reasonable and proper under the circumstances
and in the best interests of proper operation or of efficient
acquisition or construction of such project. The authority
may reject any and all bids. A bond with good and
sufficient surety, approved by the authority, shall be re-
quired of all contractors in an amount equal to at least
fifty percent of the contract price, conditioned upon the
faithful performance of the contract.

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

(13) Receive and accept from any federal agency,
subject to the approval of the governor, grants for or in
aid of the construction of any solid waste disposal project
or for research and development with respect to solid
waste disposal projects and solid waste disposal sheds
and receive and accept from any source aid or contributions 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 solid waste disposal projects and solid waste disposal sheds.

(15) Purchase fire and extended coverage and liability insurance for any solid waste disposal 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 any other insurance the authority may agree to provide under any resolution authorizing the issuance of solid waste disposal revenue bonds or in any trust agreement securing the same.

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

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

(18) Do all acts necessary and proper to carry out the powers expressly granted to the authority in this 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 governmental agencies to enforce their rights.

In order to insure that the public purposes to be served by the authority may be properly carried out and in order to assure the timely payment to the authority of
all sums due and owing under loan agreements with
governmental agencies, as referred to in section five
of this article, notwithstanding any provision to the
contrary elsewhere contained in this code, in event of
any default by a governmental agency under such a loan
agreement, the authority shall have, and may, at its
option, exercise the following rights and remedies in
addition to the rights and remedies conferred by law or
pursuant to said loan agreement:

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

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

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

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

Prior to beginning or raising the cost of the first solid
waste disposal project and within one year of the effec-
tive date of this article, the authority shall divide the
state into geographical areas for solid waste manage-
ment which shall be known as solid waste disposal sheds.
Before it designates the sheds, the authority shall con-
sult with the governing bodies of the counties and mu-
nicipalities in the state and obtain and evaluate their
opinions as to how many sheds there should be and
where their boundaries should be located. The authority
shall then cause informational gathering studies and feas-
ibility and cost studies to be made in order for it to
designate the solid waste disposal sheds within each of
which the most dependable, effective, efficient and eco-
nomical solid waste disposal projects may be established.
The sheds shall not overlap and shall cover the entire
state.

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

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

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

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

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

With the approval of the authority, the director of
the department of health shall expend out of any funds
available for the purpose such moneys as are necessary
for the study and engineering of any proposed solid waste disposal project and may use its employees and consultants for that purpose. All such expenses incurred by the director of the department of health prior to the issuance of solid waste disposal revenue bonds or notes under this article shall be paid by him and charged to the appropriate solid waste disposal project. The director of the department of health shall keep proper records and accounts showing the amounts so charged. Upon the sale of solid waste disposal revenue bonds or notes for a solid waste disposal project, the moneys so expended by the director of the department of health with the approval of the authority in connection with such project shall be repaid to the department of health 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 issuance.

The authority is hereby empowered to issue, from time to time, solid waste disposal revenue bonds and notes of the state in such principal amounts as the authority deems necessary to pay the cost of or finance in whole or in part by loans to governmental agencies, one or more solid waste development projects, 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, and shall not exceed in the aggregate the sum of fifty million dollars.

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 solid waste disposal revenue refunding bonds of the state. Except as may otherwise be expressly provided in this article or by the authority, every issue of its bonds or notes shall be obligations of the authority payable out of the revenues and reserves created for such purposes by 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 pledg-
ing 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 all the qualities of negotiable instru-
ments.

The bonds and notes shall be authorized by resolution
of the authority, shall bear such dates and shall mature at
such times, 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 authority may sell such
bonds and notes at public or private sale, at 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 thereto 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 be-
fore 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 rentals, fees, service charges and other
charges so that pledged revenues will be sufficient to pay
the costs of operation, maintenance and repairs, pay prin-
cipal 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 setting 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 solid waste disposal
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 proceeds to
secure the payment of the bonds or notes or of any issue
thereof; agreement of the authority to do all things
necessary for the authorization, issuance and sale of bonds
in such amounts as may be necessary for the timely re-
tirement of notes issued in anticipation of the issuance
of bonds; limitations on the issuance of additional bonds
or notes; the terms upon which additional bonds or notes
may be issued and secured; 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 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; securing 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.

In the event that the sum of all reserves pledged to the payment of such bonds or notes shall be less than the minimum reserve requirements established in any resolution or resolutions authorizing the issuance of such bonds or notes, the chairman of the authority shall certify, on or before the first day of December of each year, the amount of such deficiency to the governor of the state, for inclusion, if the governor shall so elect, of the amount of such deficiency in the budget to be submitted to the next session of the Legislature for appropriation to the authority to be pledged for payment of such bonds or notes: Provided, That the Legislature shall not be required to make any appropriation so requested, and the amount of such deficiencies shall not constitute a debt or liability of the state.

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.

§16-26-11. Trustee for bondholders; contents of trust agreement.

1 In the discretion of the authority, any solid waste disposal revenue bonds or notes or solid waste disposal revenue 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 revenues of the authority to be received, but shall not convey or mortgage any solid waste disposal 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 reasonable and proper and not in violation of law,
including the provisions contained in section nine of this
article, covenants setting forth the duties of the au-
thority in relation to the acquisition of property, the
construction, improvement, maintenance, repair, opera-
tion and insurance of the solid waste disposal project,
the cost of which is paid in whole or in part from the
proceeds of such bonds or notes, the rentals or other
charges to be imposed for the use or services of any solid
waste disposal project, provisions with regard to the
payment of the principal of and interest, charges and fees
on loans made to governmental agencies from the proceeds
of such bonds or notes, the custody, safeguarding, and
application of all moneys and provisions for the employ-
ment of consulting engineers in connection with the con-
struction or operation of such solid waste disposal 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 required by the authority. Any such trust agree-
ment may set forth the rights and remedies of the bond-
holders and noteholders and of the trustee and may re-
strict individual rights of action by bondholders and note-
holders as customarily provided in trust agreements or
trust indentures securing similar bonds. Such trust agree-
ment 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 solid waste disposal project. Any such trust agree-
ment or resolution authorizing the issuance of solid waste
disposal revenue bonds may provide the method whereby
the general administrative overhead expenses of the
authority shall be allocated among the several projects
acquired or constructed by it as a factor of the operating
expenses of each such project.
§16-26-12. Legal remedies of bondholders and trustees.

Any holder of solid waste disposal 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 proceeding, 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 or employee thereof, including the fixing, charging and collecting of sufficient rentals, fees, service charges or other charges.

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

Solid waste disposal revenue bonds and notes and solid waste disposal 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 sub-
division 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. This article does not
authorize the authority to incur indebtedness or liability
on behalf of or payable by the state or any county, mu-
icipality or political subdivision thereof.

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

All moneys, properties and assets acquired by the au-
authority, whether as proceeds from the sale of solid waste
disposal 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 ac-
cordance 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 solid waste
disposal revenue bonds or in any trust agreement se-
curing the same, or except when invested pursuant to
section fourteen of this article, shall be kept in appro-
priate 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.

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

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

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

(2) Bonds, debentures, notes or other evidences of
indebtedness issued by any of the following agencies:
Banks for cooperatives; federal intermediate credit banks; federal home loan bank system; Export-Import Bank of the United States; federal land banks; the Federal National Mortgage Association or the Government National Mortgage Association;

(3) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes issued by public agencies or municipalities or preliminary loan notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

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

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

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

Funds of the authority in excess of current needs, except as otherwise provided in any resolution authorizing the issuance of its solid waste disposal 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 securities 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.
§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 project or projects which are owned in whole or in part by the authority.

2 The authority may charge, alter and collect rentals, fees, service charges or other charges for the use or services of any solid waste disposal 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, rentals, fees, service charges or other charges for such use or services. Such rentals, fees, service charges 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 solid waste disposal 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 solid waste disposal revenue bonds or notes or solid waste disposal revenue refunding bonds of the authority or any trust agreement securing the same. Any governmental agency which has power to construct, operate and maintain solid waste disposal facilities may enter into a contract or lease with the authority whereby the use or services of any solid waste disposal project of the authority will be made available to such governmental agency and pay for such use or services such rentals, fees, service charges or other charges as may be agreed to by such governmental agency and the authority.

3 Any governmental agency or agencies or combination thereof may cooperate with the authority in the acquisition or construction of a solid waste disposal project and shall 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 solid waste disposal 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 solid waste disposal 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 solid waste disposal 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 project otherwise proposed to be acquired or constructed by the governmental 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 and placed in operation, shall be maintained and kept in good condition and repair by the authority or if owned by a governmental agency, by such governmental agency, or the authority or such governmental agency shall cause the same to be maintained and kept in good condition and repair. Each such project owned by the authority shall be operated by such operating employees as the authority employs or pursuant to a contract or lease with a governmental agency or person. All public or private property damaged or destroyed in carrying out the provision 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.

2. 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. 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 operation of its projects. A report of the audit shall be submitted to the governor and the Legislature.


1. The provisions of sections ten and eleven, article six, chapter twelve of this code notwithstanding, all solid waste disposal 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 financial institutions as defined in section
two, article one, chapter thirty-one-a of this code, and for insurance companies.

§16-26-19. Exemption from taxation.

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

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

1 All governmental agencies, notwithstanding any provision of law to the contrary, may lease, lend, grant or convey to the authority, at its request, upon such terms as the proper authorities of such governmental agencies deem reasonable and fair and without the necessity for an advertisement, auction, order of court or other action or formality, other than the regular and formal action of the governmental agency concerned, any real property or interests therein, including improvements thereto or personal 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 property already devoted to public use.

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

1 No officer, member or employee of the authority may 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 by the authority. This section does not apply to contracts or purchases of property, real or personal, between the authority and any governmental agency.

8 No officer, member or employee of the authority may 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.

Solid waste collectors and haulers who are "common carriers by motor vehicle", as defined in section two, article one, chapter twenty-four-a of this code, shall continue to be regulated by the public service commission in accordance with the provisions of chapter twenty-four-a and rules and regulations promulgated thereunder. Nothing in this article shall give the authority any power or right to regulate such solid waste collectors and haulers in any manner, but the public service commission, when it issues a new certificate of convenience and necessity, or when it alters or adjusts the provisions of any existing certificate of convenience and necessity, or when it approves the assignment or transfer of any certificate of convenience and necessity, shall consult with the authority regarding what action it could take which would most likely further the implementation of the authority's solid waste disposal shed plan and solid waste disposal projects and shall take any reasonable action that will lead to or bring about compliance of such waste collectors and haulers with such plan and projects.

At any hearing conducted by the public service commission pertaining to solid waste collectors and haulers on any of these matters, any member of the board, the director or an employee of the board designated by the director may appear before the commission and present evidence.

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

The provisions of this article are complementary to those contained in article twenty-four, chapter seventeen of this code, and do not alter or diminish the authority of any enforcement agency, as defined in section two thereof, to collect and dispose of abandoned household appliances 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 E. Colston, Jr.  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1977.

J.C. Dillon, Jr.  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

W. T. Battle  
President of the Senate

Donald L. Hoop  
Speaker House of Delegates

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

J. N. Riley  
Governor
APPROVED AND SIGNED BY THE GOVERNOR

Date: April 27, 1977
Time: 11:40 A.M.

OFFICE OF THE GOVERNOR

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OFFICE OF THE SECRETARY

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