

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1981

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ENROLLED

HOUSE BILL No. 105

(By Mr. Speaker, Mr. Lee)

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Passed May 8, 1981

In Effect From Passage



House Bill No: 105

ENROLLED

H. B. 105

(By MR. SPEAKER, MR. SEE)

[Passed May 8, 1981; in effect from passage.]

AN ACT to amend and reenact section eight, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section three-a, article one, chapter seven of said code; to amend and reenact sections nine and fourteen, article three of said chapter seven; to amend and reenact sections seven and twelve, article sixteen, chapter eight of said code; to amend and reenact section fourteen, article eighteen of said chapter eight; to amend and reenact sections four, five, six and seventeen, article nineteen of said chapter eight; to amend and reenact sections four, five and sixteen, article twenty of said chapter eight; to amend and reenact sections fourteen and twenty-one, article one, chapter thirteen of said code; to amend and reenact section five, article two-d of said chapter thirteen; to amend and reenact sections three and four, article two-e of said chapter thirteen; to amend and reenact sections six, ten, nineteen and twenty-two-a, article thirteen, chapter sixteen of said code; to amend and reenact section thirteen, article thirteen-a of said chapter sixteen; to amend and reenact section twenty-five, article eleven, chapter eighteen of said code; and to amend and reenact section six, article twenty-four of said chapter eighteen, all relating to the issuance of, rate of interest and permissible rate of return on, revenue bonds of agencies, instrumentalities, municipalities and political subdivisions of the state; relating to the issuance by the state building commission of West Virginia of state building revenue bonds; the form of, requirements for and procedure for issuance of such revenue bonds; the issuance by said state building commission of temporary bonds and the acceptance by said state building commission of federal or other funds, grants, gifts or contributions; increasing the eight percent ceiling on the stated rate of interest on such revenue bonds to twelve percent; authorizing the issuance of such revenue bonds without coupons and the designation of a co-paying agent within or without the state and increasing the eight percent ceiling on

the net return to the purchaser of such revenue bonds to thirteen percent; the construction of waterworks, water mains, sewer lines and sewage disposal plants; the improvement of streets, sidewalks and alleys and the laying of sewers by county commissions; assessments for the costs of improving streets, sidewalks and alleys and laying sewers and the issuance by county commissions of certificates payable for the amounts of such assessments and the interest thereon and increasing the eight percent ceiling on the stated rates of interest on such assessments and such certificates to twelve percent; the issuance by county commissions of revenue bonds for courthouses, hospitals, other public buildings, jails or regional correctional centers; limiting the maximum stated rate of interest on such revenue bonds to twelve percent and maximum net return to the purchaser of such revenue bonds to thirteen percent and authorizing the designation of a trust company as copaying agent and of a copaying agent within or without the state; the acquisition, operation and financing by county commissions of public hospitals, clinics, long-term care facilities and other related facilities and the issuance by such county commissions of revenue bonds therefor and increasing the ten percent ceiling on the stated rate of interest on such revenue bonds to twelve percent and the eleven percent ceiling on the net interest cost of such revenue bonds to thirteen percent; the enactment by the governing body of a municipality of an ordinance ordering the construction or acquisition of municipal public works and directing the issuance of revenue bonds; the publication of an abstract and notice of such ordinance and a public hearing on such ordinance; substituting "county commission" for "county court"; requiring that the public hearing on said ordinance be held not prior to the last publication of said abstract and notice; revenue bonds issued by a municipality for municipal public works; the interest rate, life, redemption, method of payment, form, denominations and other terms of such revenue bonds; the issuance by said Municipality of additional revenue bonds and of interim certificates prior to the preparation of definitive revenue bonds; increasing the ten percent ceiling on the stated rate of interest on such revenue bonds to twelve percent, ~~and~~ authorizing the issuance of bonds registered as to principal and interest and increasing the ten percent ceiling on the net return to the purchaser of such revenue bonds to thirteen per-

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cent; the issuance by municipalities of bonds in anticipation of special assessments to be made upon property abutting improved streets, alleys, public ways or easements or sewer rights-of-way or easements; increasing the ten percent ceiling on the stated rate of interest on such bonds to twelve percent and authorizing interest payment dates other than annual; an estimate of the cost of acquiring or constructing a waterworks system or constructing additions, betterments or improvements to any waterworks or electric power system by a municipality; the enactment by such municipality of an ordinance providing for the issuance of revenue bonds with respect to such acquisition or construction, certain terms of such revenue bonds and the rates or charges for the services from such waterworks or electric power system; increasing the ten percent ceiling on the stated rate of interest on such revenue bonds to twelve percent and authorizing the sale of such revenue bonds and interest payment dates other than semiannual; the publication of an abstract and notice of an ordinance authorizing the issuance of revenue bonds by a municipality for the acquisition or construction of a waterworks system or the construction of additions, betterments or improvements to any waterworks or electric power system and a public hearing on such ordinance and changing the date of such public hearing from not less than ten days subsequent to the date of the last publication of such abstract and notice to not less than ten days subsequent to the date of the first publication and not prior to the date of the last publication of such abstract and notice; the amount, negotiability and execution of revenue bonds issued by a municipality to acquire or construct a waterworks system or to construct additions, betterments or improvements to any waterworks or electric power system and increasing the ten percent ceiling on the net return to the purchaser of such revenue bonds to thirteen percent; the acceptance of grants and procurement of loans or temporary advances by a municipality from, and contracts and agreements with, the United States or any federal or public agency or department of the United States or any private agency, corporation or individual for the purpose of paying part or all of the cost of acquisition or construction of waterworks systems and of additions, betterments or improvements to existing waterworks systems

or electric power systems and authorizing the acceptance of loans, the issuance of notes or other negotiable instruments to evidence such loans or temporary advances; the acceptance and procurement of such loans, grants or temporary advances for other authorized purposes and from any authorized agency of the State and repayment of such loans or temporary advances, including the interest thereon, from the proceeds of revenue bonds, the revenues of said waterworks system or electric power system or grants to the municipality from any agency of the State or from the United States or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment; the publication of an abstract and notice of an ordinance authorizing the issuance of revenue bonds by a municipality for the acquisition or construction of a waterworks or sewerage system to be included in a combined waterworks or sewerage system, or a combined waterworks and sewerage system, or any extensions, additions, betterments or improvements to either the waterworks or sewerage system of said combined waterworks and sewerage system, or both, and a public hearing on such ordinance and changing the date of such public hearing from not less than ten days subsequent to the date of the last publication of such abstract and notice to not less than ten days subsequent to the date of the first publication and not prior to the date of the last publication of such abstract and notice; the amount, negotiability, execution and certain other terms of revenue bonds issued by a municipality for the purpose of acquiring or constructing a waterworks or sewerage system to be included in a combined waterworks and sewerage system, or a combined waterworks and sewerage system, or constructing any extensions, additions, betterments or improvements to either the waterworks or sewerage system of said combined waterworks and sewerage system, or both, and the refunding of outstanding revenue bonds of a waterworks or a sewerage system to be included in a combined waterworks and sewerage system by the sale or exchange therefor of revenue bonds of such combined waterworks and sewerage system; increasing the ten percent ceiling on the stated rate of interest on such revenue bonds to twelve percent; authorizing interest payment dates other than semiannual, increasing the

ten percent ceiling on the interest cost to the municipality of the proceeds of such revenue bonds to thirteen percent and removing the requirement that revenue bonds issued for refunding purposes be sold at not less than par and accrued interest; the acceptance of grants and procurement of loans or temporary advances by municipality from, and contracts and agreements with, the United States or any federal or public agency or department of the United States or any private agency, corporation or individual, for the purpose of paying part or all of the cost of acquisition or construction of combined waterworks and sewerage systems and of additions, betterments and improvements thereto and authorizing the acceptance of loans, the issuance of notes or other negotiable instruments to evidence such loans or temporary advances, the acceptance and procurement of such loans, grants or temporary advances for other authorized purposes and from any authorized agency of the State and repayment of such loans or temporary advances, including the interest thereon, from the proceeds of revenue bonds, the revenues of said combined waterworks and sewerage system or grants to the municipality from agency of the state or from the United States or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment; adoption by the governing body of a political division of a resolution authorizing the issuance and fixing the terms of general obligation bonds; authorizing multiple interest rates on such general obligation bonds and removing the ten percent ceiling on the stated rate of interest on such general obligation bonds; the advertisement and sale of general obligation bonds by a political division and the prior offer of such bonds for purchase by any of the governmental agencies of the state, substituting "West Virginia municipal bond commission" for "state sinking fund commission" and increasing the time period for private sale of such general obligation bonds from sixty to one hundred twenty days after the date advertised for the reception of bids; the issuance by county commissions of revenue bonds to defray the cost or any part thereof of acquiring an airport or an addition, extension or improvement thereto or to be delivered in exchange for an airport or private facility for the landing and taking off of airplanes, substituting "county commission" for "county

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court” and increasing the six percent ceiling on the state rate of interest on such revenue bonds to twelve percent and the six percent ceiling on the net return to the purchaser of such revenue bonds to thirteen percent; the issuance by public bodies of refunding bonds to refund all or any part of their outstanding revenue bonds and authorizing the issuance of such refunding bonds as part of a series of revenue bonds issued for the purpose, in addition to such refunding, or financing the acquisition or construction of improvements, betterments, extensions or replacements to the particular enterprise; the terms, form and execution of refunding bonds issued by a public body for the purpose of refunding all or any part of its outstanding revenue bonds and removing the requirement that such refunding bonds mature not later than the date of final maturity of the bonds to be refunded; the publication of an ordinance authorizing the issuance by a municipality or sanitary district of revenue bonds for the acquisition or construction of works for the collection and/or treatment, purification and disposal of sewage or extensions, improvements or betterments thereto, together with a notice regarding such ordinance, and a public hearing on such ordinance, authorizing publication of an abstract of such ordinance, determined by the governing body of such municipality or sanitary district to contain sufficient information as to give notice of the contents of such ordinance and changing the date of such publication from not less than ten days subsequent to the date of the last such publication to not less than ten days subsequent to the date of the first publication and not prior to the date of the last publication of such abstract and notice; the interest on and the redemption, form, negotiability exemption from taxation, registration, execution, sale and other terms of revenue bonds issued by a municipality or a sanitary district to finance the cost of acquisition or construction of works for the collection and/or treatment, purification and disposal of sewage or any extensions, improvements or betterments thereto, and the statement required on the face of such revenue bonds regarding payment solely from the special fund provided from the net revenues of such works, the disposition of surplus proceeds of such revenue bonds and the issuance by said municipality or sanitary district of additional revenue bonds and temporary bonds; increasing the ten percent ceil-

ing on the stated rate of interest on such revenue bonds to twelve percent; authorizing interest payment dates other than semiannual and the issuance of bonds registered as to principal and interest and increasing the eleven percent ceiling on the net return to the purchaser of such revenue bonds to thirteen percent; the contract of a municipality operating or constructing or acquiring a sewage collecting system and/or sewage disposal plant with other municipal corporations or political subdivisions of the State for the service of such works, the powers of the municipal corporations or political subdivisions with which such municipality contracts as to rates for the service rendered by such works and the construction of the necessary intercepting sewers and increasing the maximum term of such contract from fifteen to forty years; the acceptance of grants and procurement of loans or temporary advances by a municipality or sanitary district from, and contracts and agreements with, any authorized agency of the State or from the United States or any federal or public agency or department of the United States or any private agency, corporation or individual, for the purpose of paying part or all of the costs of acquisition or construction of sewage works and the construction of betterments and improvements thereto; authorizing the acceptance of loans and the acceptance and procurement of such loans, grants or temporary advances for other authorized purposes; providing that the notes or other negotiable instruments evidencing such loans or temporary advances shall be subject to the privileges set forth with respect to revenue bonds of such sewerage works and rephrasing the authorization for repayment of such loans or temporary advances, including the interest thereon, from the proceeds of revenue bonds, the revenues of said sewage works or grants to the municipality or sanitary district from any agency of the state or from the United States or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment; the issuance by public service districts of revenue bonds for constructing or acquiring any public service properties or improvements and extensions thereto and for reimbursing or paying the costs and expenses of creating such public service district; increasing the ten percent ceiling on the

stated rate of interest on such revenue bonds to twelve percent; authorizing interest payment dates other than semi-annual and increasing the ten percent ceiling on the interest costs of the proceeds of such revenue bonds to thirteen percent; the acquisition, construction, financing and regulation by the West Virginia board of regents of automobile parking facilities at West Virginia University; the imposition of penalties for violation of the regulations with respect to such parking facilities and the issuance by the board of regents of revenue bonds to finance in whole or in part such parking facilities, substituting "magistrate" for "justice of the peace;" increasing the seven percent ceiling on the stated rate of interest on such revenue bonds to twelve percent, authorizing the issuance of such revenue bonds without coupons and increasing the eight percent ceiling on the net return to the purchaser of such revenue bonds to thirteen percent; the disposition and use of student union fees imposed by state educational institutions and the issuance by the West Virginia board of regents of revenue bonds for student union buildings and increasing the ten percent ceiling on the stated rate of interest on such revenue bonds to twelve percent.

Be it enacted by the Legislature of West Virginia:

That section eight, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section three-a, article one, chapter seven of said code be amended and reenacted; that sections nine and fourteen, article three of said chapter seven be amended and reenacted; that sections seven and twelve, article sixteen, chapter eight of said code be amended and reenacted; that section fourteen, article eighteen of said chapter eight be amended and reenacted; that sections four, five, six and seventeen, article nineteen of said chapter eight be amended and reenacted; that sections four, five and sixteen, article twenty of said chapter eight be amended and reenacted; that sections fourteen and twenty-one, article one, chapter thirteen of said code be amended and reenacted; that section five, article two-d of said chapter thirteen be amended and reenacted; that sections three and four, article two-e of said chapter thirteen be amended and reenacted; that sections six, ten, nineteen and twenty-two-a, article thirteen, chapter sixteen of said code be amended and reen-

acted; that section thirteen, article thirteen-a of said chapter sixteen be amended and reenacted; that section twenty-five, article eleven, chapter eighteen of said code be amended and reenacted; and that section six, article twenty-four of said chapter eighteen be amended and reenacted, all to read as follows:

**CHAPTER 5: GENERAL POWERS AND AUTHORITY OF
THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY
GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS
AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 6. STATE BUILDING COMMISSION.

**§5-6-8. Commission empowered to issue state building revenue
bonds; form and requirements for bonds; procedure for
issuance; temporary bonds; funds, grants and gifts.**

1 The commission is hereby empowered to raise the cost of
2 a project, as defined hereinabove, by the issuance of state
3 building revenue bonds of the state, the principal of and
4 interest on which bonds shall be payable solely from the
5 special fund herein provided for such payment. Subject to
6 the proceedings pursuant to which any bonds outstanding
7 were authorized and issued pursuant to this article, the
8 commission shall pledge the moneys in such special fund,
9 except such part of the proceeds of sale of any bonds to be
10 used to pay the cost of a project, for the payment of the
11 principal of and interest on bonds issued pursuant to this
12 article, such pledge to apply equally and ratably to separate
13 series of bonds or upon such priorities as the commission
14 shall determine. Such bonds shall be authorized by resolution
15 of the commission which shall recite an estimate by the
16 commission of such cost, and shall provide for the issuance
17 of bonds in an amount sufficient, when sold as hereinafter
18 provided, to produce such cost, less the amount of any funds,
19 grant or grants, gift or gifts, contribution or contributions
20 received, or in the opinion of the commission expected to be
21 received, from the United States of America or from any other
22 source. The acceptance by the commission of any and all such
23 funds, grants, gifts and contributions, whether in money or
24 in land, labor or materials, is hereby expressly authorized. All
25 such bonds shall have and are hereby declared to have all the

26 qualities of negotiable instruments. Such bonds shall bear
27 interest at not more than twelve percent per annum, payable
28 semiannually, and shall mature in not more than forty years
29 from their date or dates, and may be made redeemable at the
30 option of the state, to be exercised by the commission, at
31 such price and under such terms and conditions, all as the
32 commission may fix prior to the issuance of such bonds. The
33 commission shall determine the form of such bonds, in-
34 cluding coupons, if any, to be attached thereto to evidence
35 the right of interest payments, which bonds shall be signed
36 by the chairman and secretary of the commission, under the
37 great seal of the state, attested by the secretary of state, and
38 the coupons, if any, attached thereto shall bear the facsimile
39 signature of said chairman of the commission. In case any of
40 the officers whose signatures appear on the bonds or coupons
41 issued as hereinbefore authorized shall cease to be such
42 officers before the delivery of such bonds, such signatures
43 shall nevertheless be valid and sufficient for all purposes the
44 same as if they had remained in office until such delivery.
45 The commission shall fix the denominations of said bonds, the
46 principal and interest of which shall be payable at the office
48 of the treasurer of the state of West Virginia, at the capitol of
48 said state, or, at option of the holder, at some bank or trust
49 company within or without the state of West Virginia to be
50 named in the bonds, in such medium as may be determined
51 by the commission. The said bonds and interest thereon shall
52 be exempt from taxation by the state of West Virginia, or any
53 county or municipality therein. The commission may provide
54 for the registration of such bonds in the name of the owner ^{as} as
55 to principal alone, and as to both principal and interest under
56 such terms and conditions as the commission may determine,
57 and shall sell such bonds in such manner as it may deter-
58 mine to be for the best interest of the state, taking into
59 consideration the financial responsibility of the purchaser,
60 and the terms and conditions of the purchase, and especially
61 the availability of the proceeds of the bonds when required
62 for payment of the costs of the project, such sale to be made at
63 a price not lower than a price which, computed upon stan-
64 dard tables of bond values, will show a net return of not
65 more than thirteen percent per annum to the purchaser upon

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66 the amount paid therefor. The proceeds of such bonds shall
67 be used solely for the payment of the cost of the project for
68 which bonds were issued, and shall be deposited and checked
69 out as provided by section five of this article, and under such
70 further restrictions, if any, as the commission may provide. If
71 the proceeds of bonds issued for a project shall exceed
72 the cost thereof, the surplus shall be paid into the fund
73 hereinafter provided for payment of the principal and interest
74 of such bonds. Such fund may be used for the purchase of any
75 of the outstanding bonds payable from such fund at the
76 market price, but at not exceeding the price, if any, at which
77 such bonds shall in the same year be redeemable, and all
78 bonds redeemed or purchased shall forthwith be cancelled,
79 and shall not again be issued. Prior to the preparation of
80 definitive bonds, the commission may, under like restric-
81 tions, issue temporary bonds with or without coupons,
82 exchangeable for definitive bonds upon the issuance of the
83 latter. Notwithstanding the provisions of sections nine and
84 ten, article six, chapter twelve of this code, revenue bonds
85 issued under the authority herein granted shall be eligible as
86 investments for the workmen's compensation fund, teachers
87 retirement fund, department of public safety death, disability
88 and retirement fund, West Virginia public employees retire-
89 ment system and as security for the deposit of all public
90 funds. Such revenue bonds may be issued without any other
91 proceedings or the happenings of any other conditions or
92 things than those proceedings, conditions and things which
93 are specified and required by this article, or by the con-
94 stitution of the state. The aggregate amount of all issues of
95 bonds outstanding at one time for all projects authorized
96 hereunder shall not exceed sixty-two million five hundred
97 thousand dollars including the renegotiation, reissuance or
98 refinancing of any such bonds. No bonds or other obligations
99 shall be issued or incurred hereunder, unless and until the
100 Legislature by concurrent resolution has approved the
101 purpose and amount of each separate project.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3a. Construction of waterworks; sewers and sewage disposal plants; improvements of streets, alleys and sidewalks; assessment of cost of sanitary sewers and improved streets.

1 In addition to all other powers and duties now conferred by
2 law upon county commissions, such commissions are here-
3 by authorized and empowered to install, construct, repair,
4 maintain and operate waterworks, water mains, sewer lines
5 and sewage disposal plants in connection therewith within
6 their respective counties: *Provided*, That the county com-
7 mission of Webster County is authorized to expend
8 county funds in the opening of, and upkeep of, a sulphur well
9 now situate on county property: *Provided*, That such
10 authority and power herein conferred upon county com-
11 missions shall not extend into the territory within any
12 municipal corporation: *Provided, however*, That any county
13 commission is hereby authorized to enter into contracts or
14 agreements with any municipality within the county, or with
15 a municipality in an adjoining county, with reference to the
16 exercise of the powers vested in such commissions by this
17 section.

18 In addition to the foregoing, the county commission shall
19 have the power to improve streets, sidewalks and alleys and
20 lay sewers as follows: Upon petition in writing duly verified,
21 of the persons, firms or corporations owning not less than
22 sixty percent of the frontage of the lots abutting on both sides
23 of any street or alley, between any two cross-streets, or
24 between a cross-street and an alley in any unincorporated
25 community, requesting the county commission so to do ac-
26 cording to plans and specifications submitted with such
27 petition and offering to have their property so abutting
28 assessed not only with their portion of the cost of such
29 improvement abutting upon their respective properties, but
30 also offering to have their said properties proportionately
31 assessed with the total cost of paving, grading and curbing
32 the interections of such streets and alleys, the county
33 commission may cause any such street or alley to be
34 improved or paved or repaved substantially with the
35 materials and according to such plans and specifications as

36 hereinafter provided: *Provided, however,* That the county
37 commission is further authorized, if the said county com-
38 mission so determines by a unanimous vote of its consti-
39 tuted membership, that two or more intersecting streets,
40 sidewalks, alleys and sewers, should be improved as one
41 project, in order to satisfy peculiar problems resulting from
42 access as well as drainage problems, then, in that event,
43 the said county commission may order such improvements as
44 one single unit and project, upon petition in writing duly
45 verified of the persons, firms or corporations owning not less
46 than sixty percent of the frontage of the lots abutting on both
47 sides of all streets or alleys, or portions thereof included by
48 said county commission in said unit and project.

49 The total cost including labor and materials, engineering,
50 and legal service of grading and paving, curbing, improving
51 any such street or alley (including the cost of the inter-
52 sections) and assessing the cost thereof shall be borne by
53 the owners of the land abutting upon such street or alley
54 when the work is completed and accepted according to the
55 following plan, that is to say, payment is to be made by all
56 landowners on either side of such street or alley so paved or
57 improved, in such proportion of the total cost as the frontage
58 in feet of each owner's land so abutting bears to the total
59 frontage of all the land so abutting on such street or alley, so
60 paved or improved as aforesaid, which computation shall be
61 made by the county engineer or surveyor and certified by him
62 to the clerk of said commission.

63 Upon petition in writing duly verified, of the persons, firms
64 or corporations owning not less than sixty percent of the
65 frontage of the lots abutting on one side of any street between
66 any two cross-streets or between a cross-street and an alley in
67 any unincorporated community requesting the county
68 commission so to do according to plans and specifications
69 submitted with such petition and offering to have their
70 property so abutting assessed with the total cost thereof, the
71 county commission may cause any sidewalk to be improved,
72 or paved, or repaved, substantially with such materials ac-
73 cording to such plans and specifications and the total cost
74 including labor and materials, engineering and legal service

75 of improving, grading, paving or repaving such sidewalk and
76 assessing the cost thereof shall, when the work is completed
77 and accepted, be assessed against the owners of the lots or
78 fractional part of lots abutting on such sidewalk, in such
79 portion of the total cost as the frontage in feet of each owner's
80 land so abutting bears to the total frontage of all lots so
81 abutting on such sidewalk so paved or improved, as afore-
82 said, which computation shall be made by the county engi-
83 neer or surveyor and certified by him to the clerk of said
84 commission.

85 Upon petition in writing duly verified, of the persons, firms
86 or corporations owning not less than sixty percent of the
87 frontage of the lots abutting on both sides of any street or
88 alley, in any unincorporated community requesting the
89 county commission so to do according to plans and
90 specifications submitted with such petition and offering to
91 have their property so abutting assessed with the cost, as
92 hereinafter provided, the county commission may lay and
93 construct sanitary sewers in any street or alley with such
94 materials and substantially according to such plans and
95 specifications and when such sewer is completed and
96 accepted, the county engineer or surveyor shall report to
97 the county commission, in writing, the total cost of such
98 sewer and a description of the lots and lands, as to the lo-
99 cation, frontage, depth and ownership liable for such
100 sewer assessment, so far as the same may be ascertained,
101 together with the amount chargeable against each lot and
102 owner, calculated in the following manner. The total cost
103 of constructing and laying the sewer including labor, materials,
104 legal and engineering services shall be borne by the owners
105 of the land abutting upon the streets and alleys, in which the
106 sewer is laid according to the following plan: Payment is to
107 be made by each landowner on either side of such portion of
108 a street or alley in which such sewer is laid, in such proportions
109 as the frontage of his land upon said street or alley bears to
110 the total frontage of all lots so abutting on such street or alley.
111 In case of a corner lot, frontage is to be measured along the
112 longest dimensions thereof abutting on such street or alley
113 in which such sewer is laid. Any lot having a depth of two
114 hundred feet or more, and fronting on two streets or alleys,

115 one in the front and one in the rear of said lot, shall be
116 assessed on both of said streets or alleys if a sewer is laid in
117 both such streets and alleys. Where a corner lot has been
118 assessed on the end it shall not be assessed on the side for the
119 same sewer and where it has been assessed on the side it shall
120 not be assessed on the end for the same sewer.

121 If the petitioners request the improvement of any such
122 street, alley or sidewalk in a manner which does not require
123 the permanent paving or repaving thereof, the county
124 commission shall likewise have authority to improve such
125 street, alley or sidewalk, substantially as requested in such
126 petition, and the total cost thereof including labor, materials,
127 engineering and legal services shall be assessed against the
128 abutting owners in the proportion which the frontage of their
129 lots abutting upon such street, alley or sidewalk bears to the
130 total frontage of all lots abutting upon such street, alley or
131 sidewalk so improved.

132 Upon the filing of such petition and before work is begun,
133 or let to contract, the county commission shall fix a time and
134 place for hearing protests and shall require the petitioners to
135 post notice of such hearing in at least two conspicuous places
136 on the street, alley or sidewalk affected, and to give notice
137 thereof by publication of such notice as a Class I legal
138 advertisement in compliance with the provisions of article
139 three, chapter fifty-nine of this code, and the publication area
140 for such publication shall be the county in which the im-
141 provement is to be made. The hearing shall be held not less
142 than ten nor more than thirty days after the filing of such
143 petition.

144 At the time and place set for hearing protests the county
145 commission may examine witnesses and consider other
146 evidence to show that said petition was filed in good faith;
147 that the signatures thereto are genuine; and that the proposed
148 improvement, paving, repaving or sewerage will result in
149 special benefits to all owners of property abutting on said
150 street, alley or sidewalk in an amount at least equal in value
151 to the cost thereof. The commission shall within ten days
152 thereafter enter a formal order stating its decision and if the
153 petition be granted shall proceed after due advertisement,

154 reserving the right to reject any or all bids, to let a contract for
155 such work and materials to the lowest responsible bidder.

156 Any owner or property abutting upon said street, alley or
157 sidewalk aggrieved by such order shall have the right to
158 review the same on the record made before the county
159 commission by filing within ten days after the entry of such
160 order a petition with the clerk of the circuit court assigning
161 errors and giving bond in a penalty to be fixed by the circuit
162 court to pay any costs or expenses incurred upon such appeal
163 should the order of the county commission be affirmed. The
164 circuit court shall proceed to review the matter as in other
165 cases of appeal from the county commission.

166 All assessments made under this section shall be certified
167 to the county clerk and recorded in a proper trust deed book
168 and indexed in the name of the owner of any lot or fractional
169 part of a lot so assessed: The assessment so made shall be a
170 lien on the property liable therefor, and shall have priority
171 over all other liens except those for taxes, and may be
172 enforced by a civil action in the name of the contractor
173 performing the work in the same manner as provided for
174 other liens for permanent improvements. Such assessment
175 shall be paid in not more than ten equal annual installments,
176 bearing interest at a rate not to exceed twelve percent per
177 annum, as follows: That first installment, together with
178 interest, on the whole assessment, shall be paid not later than
179 one year from the date of such assessment, and a like
180 installment with interest on the whole amount remaining
181 unpaid each year thereafter until the principal and all interest
182 shall have been paid in full.

183 The county commission may issue coupon-bearing cer-
184 tificates payable in not more than ten equal annual in-
185 stallments for the amount of such assessment and the
186 interest thereon, to be paid by the owner of any lot or
187 fractional part thereof, fronting on such street, alley or
188 sidewalk which has been improved, paved, or repaved or in
189 which a sewer has been laid, as aforesaid, and the holder of
190 said certificate shall have a lien having priority over all other
191 liens except those for taxes upon the lot or part of lot fronting
192 on such street, alley or sidewalk, and such certificate shall

193 likewise draw interest from the date of assessment at a rate
194 not to exceed twelve percent per annum, and payment
195 thereof may be enforced in the name of the holder of said
196 certificate by proper civil action in any court having jurisdic-
197 tion to enforce such lien.

198 .Certificates authorized under this section may be issued,
199 sold or negotiated to the contractor doing the work, or to his
200 assignee, or to any person, firm, or corporation: *Provided,*
201 That the county commission in issuing such certificates shall
202 not be held as a guarantor, or in any way liable for the
203 payment thereof. Certificates so issued shall contain a
204 provision to the effect that in the event of default in the
205 payment of any one or more of said installments, when due,
206 said default continuing for a period of sixty days, all unpaid
207 installments shall thereupon become due and payable, and
208 the owner of said certificates may proceed to collect the
209 unpaid balance thereof in the manner hereinbefore provided.

210 In all cases where petitioners request paving or repaving, or
211 the laying of sewers under the provisions of this section, the
212 county commission shall let the work of grading, paving,
213 curbing or sewerage to contract to the lowest responsible
214 bidder. In each such case the county commission shall
215 require a bond in the penalty of the contract price guar-
216 anteeing the faithful performance of the work and each
217 such contract shall require the contractor to repair any
218 defects due to defective workmanship or materials discovered
219 within one year after the ~~completion~~ of the work.

220 Upon presentation to the clerk of the county commission
221 of the certificates evidencing the lien, duly canceled and
222 marked paid by the holder thereof, or evidence of payment of
223 the assessment if no certificates have been issued, said clerk
224 shall execute and acknowledge a release of the lien which
225 release may be recorded, as other releases in the office of the
226 clerk of the county commission.

227 The owner of any lot or fractional part of a lot abutting
228 upon such street, alley or sidewalk so improved, paved, repaved
229 or sewerage shall have the right to anticipate the payment of
230 any such assessment or certificate by paying the principal

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231 amount due, with interest accrued thereon to date of pay-
232 ment, and also to pay the entire amount, without interest
233 at any time, within thirty days following the date of the
234 assessment.

235 Nothing in this section contained shall be construed to
236 authorize the county commission of the various counties to
237 acquire any road construction, ditching or paving equipment.
238 The county commissions are hereby authorized to rent from
239 the state road commissioner or any other person, firm or
240 corporation such equipment as may be necessary from time
241 to time, to improve any street or sidewalk which petitioners
242 do not desire to have paved in a permanent manner, and for
243 such purpose to employ such labor as may be necessary but
244 no expense connected therewith shall be charged to any
245 county funds.

246 No county commission shall be under any duty after the
247 paving, repaving or improvement of any street, alley or
248 sidewalk or the laying of any sanitary sewer under the
249 provisions of this section, to maintain or repair the same, but
250 any such commission shall have authority upon petition duly
251 verified, signed by at least sixty percent of the owners of
252 property abutting upon any improvement made under this
253 section, to maintain or repair such improvement or sewer and
254 to assess the cost thereof against the owners of such abutting
255 property in the same manner as the cost of the original im-
256 provement.

ARTICLE 3. COUNTY PROPERTY.

§7-3-9. Form and payment of bonds; use of proceeds of bonds.

1 Any county commission issuing revenue bonds under the
2 provisions of this article shall thereafter, so long as any such
3 bonds remain outstanding, operate and maintain said
4 courthouse, hospital, other public buildings, jail or regional
5 correctional center, to provide revenue sufficient to pay all
6 operating costs, provide a sinking fund for, and to retire such
7 bonds and pay the interest thereon as the same may become
8 due. The amounts, as and when so set apart by said county
9 commission, shall be remitted to the West Virginia municipal
10 bond commission at least thirty days previous to the time

11 interest or principal payments become due, to be retained
12 and paid out by said commission consistent with the
13 provisions of this article and with the order pursuant to
14 which the bonds have been issued. The West Virginia muni-
15 cipal bond commission is hereby authorized to act as fiscal
16 agent for the administration of such sinking fund under any
17 order passed pursuant to the provisions of this article, and
18 shall invest all sinking funds, as provided by general law.
19 Revenue bonds issued under the provisions of this article are
20 hereby declared to be and to have all the qualities of negoti-
21 able instruments. Such bonds shall bear interest at the rate
22 or rates set by the county commission, not to exceed twelve
23 percent per annum, payable semiannually, and shall mature
24 at any time fixed by the county commission, in not more than
25 thirty years from their date. Such bonds shall be sold at a
26 price not lower than a price which, when computed upon
27 standard tables of bond values, will show a net return of not
28 more than thirteen percent per annum to the purchaser upon
29 the amount paid therefor. Such bonds may be made
30 redeemable at the option of the county commission at such
31 price and under terms and conditions as said county
32 commission may fix, by its order, prior to the issuance of such
33 bonds. Revenue bonds issued hereunder shall be payable at
34 the office of the state treasurer, or a designated bank or trust
35 company within or without the state of West Virginia.

36 In case any of the officers whose signatures appear on such
37 bonds or coupons shall cease to be such officers before the
38 delivery of such bonds, such signatures shall, nevertheless,
39 be valid and sufficient for all purposes the same as if they
40 had remained in office until such delivery. The county com-
41 mission shall by order entered prior to the issuance of
42 said bonds, fix the denominations, times and places of
43 payment of such bonds, the principal and interest of which
44 shall be payable in lawful money of the United States of
45 America. The proceeds of such bonds shall be used solely for
46 the payment of the cost of land, buildings, furniture and
47 equipment thereon, and shall be checked out by the county
48 commission under such restrictions as are contained in the
49 order providing for the issuance of said bonds. If the proceeds
50 of such bonds issued for any courthouse, hospital, other

51 public buildings, jail or regional correctional center, shall
52 exceed the cost thereof, the surplus shall be paid into the
53 fund herein provided for the payment of principal and
54 interest upon such bonds. Such fund may be used for the
55 purchase or redemption of any of the outstanding bonds
56 payable from such fund at the market price, but at not
57 exceeding the price at which any of such bonds shall in the
58 same year be redeemable, as fixed by the commission in its
59 said order, and all bonds redeemed or purchased shall forth-
60 with be canceled, and shall not again be issued.

61 Prior to the preparation of definitive bonds, the county
62 commission may, under like restrictions, issue temporary
63 bonds, or interim certificates, with or without coupons,
64 exchangeable for definitive bonds upon the issuance of the
65 latter. Such bonds may be issued without any other
66 proceedings or the happening of any other conditions or
67 things than those proceedings, conditions and things which
68 are specified and required by this article.

§7-3-14. Authority to acquire and operate hospitals, clinics, long-term care facilities and other related facilities; financing.

1 The county commission of any county is hereby authorized
2 and empowered to acquire by purchase or construction and
3 to thereafter own, equip, furnish, operate, lease, improve and
4 extend a public hospital, clinic, long-term care facility and
5 other related facilities, with all appurtenances, including the
6 necessary real estate as a site therefor. Any such county
7 public hospital acquired pursuant thereto may include a
8 nurses home and nurses training school. The county
9 commission is further authorized and empowered, upon
10 acquiring a hospital, clinic, long-term care facility or other
11 related facility, to lease to others any or all such facilities for
12 such rentals and upon such terms and conditions as the
13 county commission may deem advisable. For the purpose of
14 paying all or any part of the costs, not otherwise provided, of
15 acquiring, completing, equipping, furnishing, improving or
16 extending such hospital, clinic, long-term care facility or
17 other related facility, the county commission is hereby
18 authorized and empowered by order duly entered of record,

19 to issue and sell the negotiable revenue bonds of such county,
20 which shall be payable solely and only from all or such part of
21 the net revenues from the operation of such county public
22 hospital, clinic, long-term care facility or other related facility
23 as may be provided by said order; and each such revenue
24 bond so issued shall contain a recital that payment or
25 redemption of the bond and payment of the interest thereon
26 is secured by the revenues pledged therefor, and that such
27 bond does not constitute an indebtedness of such county or
28 the county commission thereof within the meaning of any
29 constitutional or statutory limitation or provision. Such
30 revenue bonds may bear such date or dates, may mature at
31 such time or times not exceeding thirty-four years from their
32 respective dates, may bear interest at such rate or rates not
33 exceeding twelve percent per annum, may be of such
34 denomination or denominations, may be in such form, may
35 carry such registration privileges, may be made subject to
36 such terms of redemption with or without premium, and may
37 contain such other terms and covenants not inconsistent with
38 this article as may be provided in such order. Such revenue
39 bonds shall be exempt from taxation by the state of West
40 Virginia and the other taxing bodies of the state. In deter-
41 mining the amount of revenue bonds to be issued, there may
42 be included any expenses in connection with and incidental
43 to the issuance and sale of bonds and for the preparation of
44 plans, specifications, surveys and estimates, interest during
45 the estimated construction period and for six months
46 thereafter, and a reasonable amount for working capital and
47 prepaid insurance. Such bonds may be sold in such manner,
48 at such times and upon such terms as may be determined by
49 the county commission to be for the best interests of the
50 county: *Provided*, That no bonds may be sold upon terms
51 which will result in the net interest cost of more than thirteen
52 percent per annum computed to maturity of the bonds
53 according to standard tables of bond values. There may be
54 included in any such order authorizing the issuance of
55 revenue bonds such covenants, stipulations and conditions
56 as may be deemed necessary with respect to the expenditure
57 of the bond proceeds, the operation and maintenance of the
58 county public hospital, clinic, long-term care facility or other

59 related facility, and the custody and application of the
60 revenues from such operation. The holder of any bond or
61 bonds may, by mandamus or other appropriate proceedings,
62 require and compel performance of any duties imposed by
63 law in connection with the hospital, clinic, long-term care
64 facility or other related facility, or any covenant, stipulation
65 or condition that may have been expressed in such bond
66 order.

CHAPTER 8. MUNICIPAL LAW, MUNICIPALITIES AND COUNTIES; INTERGOVERNMENTAL RELATIONS.

ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FI- NANCING.

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

1 Before any municipality or municipalities shall, under the
2 provisions of this article, construct, reconstruct, establish,
3 acquire, improve, renovate, extend, enlarge, increase, equip
4 or repair (including replacements) any municipal public
5 works, the governing body, or the governing body of each
6 participating municipality, shall enact an ordinance or
7 ordinances, which shall (a) set forth a brief and general
8 description of the works, including a reference to the
9 preliminary report or plans and specifications which shall
10 theretofore have been prepared; (b) set forth the estimated
11 cost thereof; (c) order the construction, reconstruction,
12 establishment, acquisition, improvement, renovation, ex-
13 tension, enlargement, increase, equipment or repair (in-
14 cluding replacements) of such works; (d) direct that
15 municipal revenue bonds be issued pursuant to this article, in
16 such amount as may be found necessary to pay the cost of the
17 works; (e) contain such provisions as the governing body
18 determines are necessary or desirable with regard to the
19 establishment and setting aside of reserves from the proceeds
20 of such revenue bonds or from the revenues of said works, or
21 from both, and the administration and disposition thereof;
22 and (f) contain such other provisions as may be necessary or
23 proper in the premises. When two or more municipalities take
24 joint action under the provisions of this article, a certified
25 copy of each such ordinance shall be filed in the office of the

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26 clerk of the county commission of the county or counties in
27 which the municipalities are located and in the office of the
28 state tax commissioner, and when any such municipality
29 is located in more than one county, the filing for that
30 municipality shall be in the office of the clerk of the county
31 commission in which the major portion of the territory of
32 such municipality is located. Before any such ordinance shall
33 become effective, an abstract of the ordinance, determined by
34 the governing body or each governing body, as the case may
35 be, to contain sufficient information as to give notice of
36 the contents of such ordinance, together with the following
37 described notice, shall be published as a Class II legal
38 advertisement in compliance with the provisions of article
39 three, chapter fifty-nine of this code, and the publication area
40 for such publication shall be such municipality or each such
41 municipality, as the case may be. The notice to be published
42 with said abstract of the ordinance shall specify a date, time
43 and place for a public hearing, the date being not less than ten
44 days after the first publication of said abstract and notice and
45 not prior to the last publication of said abstract and notice, at
46 which time and place all parties and interest may appear
47 before the governing body of the municipality or each such
48 municipality and may be heard as to whether or not said
49 ordinance shall be put into effect, and said notice shall also
50 identify the office in which a certified copy of such ordinance
51 shall be on file for review by interested persons during the
52 office hours of such office. At such hearing all objections and
53 suggestions shall be heard and the governing body or each
54 such governing body shall take such action as it or they shall
55 deem proper in the premises: *Provided*, That if at any such
56 hearing written protest is filed by thirty percent or more of
57 the freeholders of the municipality for which the hearing is
58 held, then the governing body of said municipality shall not
59 take further action unless four fifths of the members of said
60 governing body assent thereto: *Provided, however*, That in
61 case written protest is filed by thirty percent or more of the
62 freeholders as herein provided, any such governing body
63 shall have authority to appoint a committee to consist of one
64 proponent, one opponent, and the third to be selected by
65 these two, to determine whether or not thirty percent of the

66 freeholders have in fact protested and said committee shall
67 report its findings to any such governing body.

§8-16-12. Interest rate and life ^{of O.E.B.E.N.} bonds; redemption; how payable; form, denominations, etc.; additional bonds authorized; interim certificates.

1 Such revenue bonds shall bear interest at not more than
2 twelve percent per annum, payable semiannually, or at
3 shorter intervals, and shall mature at such time or times, not
4 exceeding forty years, as may be determined by the
5 ordinance or ordinances authorizing the issuance of such
6 bonds. Such bonds may be made redeemable before
7 maturity, at the option of the municipality or municipalities
8 issuing the same, to be exercised by said board, at not more
9 than the par value thereof, and at a premium of not more than
10 five percent, under such terms and conditions as may be
11 fixed by the ordinance or ordinances authorizing the issuance
12 of the bonds. The principal and interest of the bonds may be
13 made payable in any lawful medium. Such ordinance or
14 ordinances shall determine the form of the bonds, either
15 coupon or registered, shall set forth any registration or
16 conversion privileges, and shall fix the denomination or
17 denominations of such bonds, and the place or places of the
18 payment of the principal and interest thereof, which may be
19 at any banking institution or trust company within or without
20 the state. When two or more municipalities take joint action
21 under the provisions of this article, the bonds shall be issued
22 by the participating municipalities either as separate or joint
23 bonds, as the governing bodies thereof may agree, and when
24 separate bonds are issued, the amount of the bonds to be
25 issued by each participating municipality shall be fixed by
26 agreement of the governing bodies of the participating
27 municipalities set forth in the ordinance of each participating
28 municipality authorizing the issuance of such bonds. The
29 bonds shall contain a statement on their face that the
30 municipality or municipalities issuing the same shall not be
31 obligated to pay the same, or the interest thereon, except
32 from the special fund derived from the net revenue of the
33 works, or the pro rata part thereof, as provided for in section
34 eleven hereof. All such bonds shall be, and shall have and are

35 hereby declared to have all the qualities and incidents of
36 negotiable instruments, under the Uniform Commercial Code
37 of this state. The bonds shall be executed in such manner as
38 the governing body or bodies may direct. The bonds shall be
39 sold by the governing body or bodies in such manner as may
40 be determined to be for the best interest of the municipality
41 or municipalities: *Provided*, That said bonds shall not be
42 negotiated at a price lower than a price which when
43 computed to maturity upon standard tables of bond values
44 will show a net return of more than thirteen percent per
45 annum to the purchaser upon the amount paid therefor. Any
46 surplus of the bond proceeds over and above the cost of the
47 project shall be paid into the sinking fund hereinafter
48 provided for. If the proceeds of the bonds, by error of
49 calculation or otherwise, shall be less than the cost of the
50 project, additional bonds may in like manner be issued to
51 provide the amount of such deficit, and, unless otherwise
52 provided in the ordinance or ordinances authorizing the
53 issuance of the bonds first issued, or in the trust indenture
54 hereinafter authorized, shall be deemed to be of same issue,
55 and shall be entitled to payment without preference or
56 priority of the bonds first issued; and if any preference or
57 priority of the bonds first issued is provided for in the ordi-
58 nance or ordinances authorizing the issuance of the bonds
59 first issued or in said trust indenture, such preference or prior-
60 ity shall not extend to an amount exceeding ten percent of the
61 original issue. Prior to the preparation of the definitive bonds,
62 interim certificates may, under like restrictions, be issued,
63 exchangeable for definitive bonds upon the issuance of the
64 latter.

**ARTICLE 18. ASSESSMENTS TO IMPROVE STREETS, SIDEWALKS
AND SEWERS; SEWER CONNECTIONS AND BOARD
OF HEALTH.**

§8-18-14. Issuance of bonds.

1 Every municipality is hereby empowered and authorized to
2 issue its bonds for any improvements under the provisions of
3 this article in anticipation of special assessments to be made
4 upon the property abutting upon the streets, alleys, public
5 ways or easements, or sewer rights-of-way or easements, so

6 improved, and such bonds may be in such an amount as will
7 be sufficient to pay the entire estimated cost and expense of
8 such improvements for which such special assessments are
9 levied. Such municipality is also authorized to sell such
10 bonds, but the price for which they are sold shall not be below
11 the par value of such bonds. Such bonds shall be payable in
12 not to exceed ten years from the date of the issuance thereof,
13 and shall bear interest at not to exceed twelve percent per
14 annum, payable at such times, as shall be determined by the
15 governing body of the municipality; and in the issuance and
16 sale of such bonds, the municipality shall be governed by all
17 the restrictions and limitations of the constitution of this
18 state, and by the restrictions and limitations of the statutes of
19 this state with respect to the issuance and sale of other bonds,
20 so far as they are not in conflict with the provisions of this
21 article; and the assessments shall be collected as provided in
22 sections ten and twelve of this article, and as paid and
23 collected shall be applied to the liquidation of such bonds and
24 the interest thereon; and if by reason of penalties collected
25 with delinquent assessments there be any balance after the
26 payment of such bonds and all accrued interest and costs, such
27 balance shall be turned into the municipal treasury to the
28 credit of the interest and sinking fund of the municipality:
29 *Provided*, That no such municipality shall by sale or issuance
30 of such bonds cause the aggregate of its indebtedness of
31 every kind whatsoever to exceed five percent of the value of
32 taxable property therein: *Provided, however*, That nothing
33 herein contained shall be construed as authorizing any such
34 municipality to become indebted in any other manner or for
35 any purpose, to an amount, including its existing in-
36 debtedness, in the aggregate exceeding two and one-half
37 percent of the value of the taxable property therein, as
38 provided in section three, article one, chapter thirteen of this
39 code, except for the purpose of grading, regrading, paving,
40 repaving, surfacing, resurfacing, curbing, recurbing, building
41 or renewing sidewalks, or constructing sewers or otherwise
42 improving or reimproving the streets, alleys, public ways or
43 easements, or sewer rights-of-way or easements, of such
44 municipality, as provided for in this article; nor shall such
45 municipality make such issuance and sale without at the

46 same time providing for the collection of a direct annual tax
47 sufficient to pay annually the interest on such debt and the
48 principal thereof within and not exceeding ten years. All of
49 the assessments, interest and penalties collected from the
50 abutting property owners on account of the grading,
51 regrading, paving, repaving, surfacing, resurfacing, curbing,
52 recurbing, building or renewing sidewalks, or constructing
53 sewers or otherwise improving or reimproving the streets,
54 alleys, public ways or easements, or sewer rights-of-way or
55 easements, of any such municipality, under the provisions of
56 this article, shall annually be applied to the annual tax
57 required to pay the interest on such debt and such principal
58 within and not exceeding ten years; and in the event that the
59 assessments, interest and penalties so collected do not
60 amount to a sum sufficient to pay annually the interest on
61 such debt and the principal thereof within and not exceeding
62 ten years, then ^{the} governing body of such municipality shall
63 collect so much of such levy as will pay annually the interest
64 on such debt and the principal thereof within and not exceed-
65 ing ten years.

**ARTICLE 19. MUNICIPAL WATERWORKS AND ELECTRIC POWER
SYSTEMS.**

**§8-19-4. Estimate of cost; ordinance for issuance of revenue
bonds; interest on bonds; rates for services.**

1 Whenever a municipality shall, under the provisions of
2 this article, determine to acquire, by purchase or otherwise,
3 construct, establish, extend or equip a waterworks system, or
4 to construct any additions, betterments or improvements to
5 any waterworks or electric power system, it shall cause an
6 estimate to be made of the cost thereof, and shall, by
7 ordinance, provide for the issuance of revenue bonds under
8 the provisions of this article, which ordinance shall set
9 forth a brief description of the contemplated undertaking, the
10 estimated cost thereof, the amount, rate or rates of interest,
11 the time and place of payment, and other details in con-
12 nection with the issuance of the bonds. Such bonds shall
13 be in such form and shall be negotiated and sold in such
14 manner and upon such terms as the governing body of such
15 municipality may by ordinance specify. All such bonds and

16 the interest thereon, and all properties and revenues and
17 income derived from such waterworks or electric power
18 system, shall be exempt from all taxation by this State, or any
19 county, municipality, political subdivision or agency thereof.
20 Such bonds shall bear interest at not more than twelve
21 percent per annum, payable at such times, and shall be
22 payable as to principal at such times, not exceeding forty
23 years from their date, and at such place or places, within or
24 without the State, as shall be prescribed in the ordinance
25 providing for their issuance. Such ordinance shall also
26 declare that a statutory mortgage lien shall exist upon the
27 property so to be acquired, constructed, established, extended
28 or equipped, fix minimum rates or charges for water to be
29 collected prior to the payment of all of said bonds and shall
30 pledge the revenues derived from the waterworks or electric
31 power system for the purpose of paying such bonds and
32 interest thereon, which pledge shall definitely fix and de-
33 termine the amount of revenues which shall be necessary to
34 be set apart and applied to the payment of the principal of and
35 interest upon the bonds and the proportion of the balance of
36 such revenues, which are to be set aside as a proper and
37 adequate depreciation account, and the remainder shall be
38 set aside for the reasonable and proper maintenance and
39 operation thereof. The rates or charges to be charged for the
40 services from such waterworks or electric power system shall
41 be sufficient at all times to provide for the payment of interest
42 upon all bonds and to create a sinking fund to pay the
43 principal thereof as and when the same become due, and
44 reasonable reserves therefor, and to provide for the repair,
45 maintenance and operation of the waterworks or electric
46 power system, and to provide an adequate depreciation fund,
47 and to make any other payments which shall be required or
48 provided for in the ordinance authorizing the issuance of said
49 bonds.

§8-19-5. Publication of abstract of ordinance and notice; hearing.

1 After the ordinance for any project under this article has
2 been adopted, an abstract of the ordinance, determined by
3 the governing body to contain sufficient information as to
4 give notice of the contents of such ordinance, together with

5 the following described notice, shall be published as a Class
6 II legal advertisement in compliance with the provisions of
7 article three, chapter fifty-nine of this code, and the
8 publication area for such publication shall be such munici-
9 cipality. The notice to be published with said abstract of
10 the ordinance shall state that said ordinance has been
11 adopted, that the municipality contemplates the issuance of
12 the bonds described in the ordinance, that any person
13 interested may appear before the governing body, upon a
14 certain date, which shall be not less than ten days subsequent
15 to the date of the first publication of such abstract and notice
16 and which shall not be prior to the date of the last publication
17 of such abstract and notice, and present protests, and that a
18 certified copy of the ordinance is on file with the governing
19 body for review by interested parties during the office hours
20 of the governing body. At such hearing all protests and
21 suggestions shall be heard and the governing body shall take
22 such action as it shall deem proper in the premises: *Provided,*
23 That if at such hearing written protest is filed by thirty
24 percent or more of the freeholders of the municipality, then
25 the governing body of said municipality shall not take further
26 action unless four fifths of the qualified members of said
27 governing body assent thereto.

§8-19-6. Amount, negotiability and execution of bonds.

1 Bonds herein provided for shall be issued in such amounts
2 as may be necessary to provide sufficient funds to pay all
3 costs of acquisition, construction, establishment, extension
4 or equipment, including engineering, legal and other
5 expenses, together with interest to a date six months
6 subsequent to the estimated date of completion. Bonds
7 issued under the provisions of this article are hereby declared
8 to be negotiable instruments, and the same shall be executed
9 by the proper legally constituted authorities of the munici-
10 pality, and be sealed with the corporate seal of the munici-
11 pality, and in case any of the officers whose signatures
12 appear on the bonds or coupons shall cease to be such officers
13 before delivery of such bonds, such signatures shall
14 nevertheless be valid and sufficient for all purposes the same
15 as if they had remained in office until such delivery. All
16 signatures on the bonds or coupons and the corporate seal

17 may be mechanically reproduced if authorized in the
18 ordinance authorizing the issuance of the bonds. Said bonds
19 shall not be negotiated at a price lower than a price which
20 when computed to maturity upon standard tables of bond
21 values will show a net return of more than thirteen percent
22 per annum to the purchaser upon the amount paid therefor.

**§8-19-17. Acceptance of loans or grants and procurement of loans
or temporary advances from, and contracts and agree-
ments with, State or federal agencies or private
parties.**

1 Any municipality is hereby empowered and authorized to
2 accept loans or grants and procure loans or temporary
3 advances evidenced by notes or other negotiable instruments
4 issued in the manner, and subject to the privileges and
5 limitations, set forth with respect to bonds authorized to be
6 issued under the provisions of this article, for the purpose of
7 paying part or all of the cost of acquisition, construction,
8 establishment, extension or equipment of waterworks sy-
9 stems and the construction of additions, betterments and
10 improvements to existing waterworks systems or to existing
11 electric power systems, and for the other purposes herein
12 authorized, from any authorized agency of the state or from
13 the United States of America or any federal or public agency
14 or department of the United States or any private agency,
15 corporation or individual, which loans or temporary ad-
16 vances, including the interest thereon, may be repaid out
17 of the proceeds of bonds authorized to be issued under the
18 provisions of this article, the revenues of the said waterworks
19 system or electric power system or grants to the municipality
20 from any agency of the state or from the United States of
21 America or any federal or public agency or department of the
22 United States or any private agency, corporation or in-
23 dividual or from any combination of such sources of
24 payment, and to enter into the necessary contracts and
25 agreements to carry out the purposes hereof with any agency
26 of the state, the United States of America or any federal or
27 public agency or department of the United States, or with any
28 private agency, corporation or individual.

29 In no event shall any such loan or temporary advance be a

30 general obligation of the municipality and such loans or
31 temporary advances, including the interest thereon, shall be
32 paid solely from the sources specified in this section.

ARTICLE 20. COMBINED WATERWORKS AND SEWERAGE SYSTEMS.

§8-20-4. Publication of abstract of ordinance and notice; hearing.

1 After the ordinance for any project under the provisions of
2 this article has been adopted, an abstract of the ordinance,
3 determined by the governing body to contain sufficient
4 information as to give notice of the contents of such
5 ordinance, together with the following described notice, shall
6 be published as a Class II legal advertisement in compliance
7 with the provisions of article three, chapter fifty-nine of this
8 code, and the publication area for such publication shall be
9 such municipality. The notice to be published with said
10 abstract of the ordinance shall state that said ordinance has
11 been adopted, that the municipality contemplates the
12 issuance of the bonds described in the ordinance, that any
13 person interested may appear before the governing body
14 upon a certain date, which shall not be less than ten days
15 subsequent to the date of the first publication of such abstract
16 and notice and which shall not be prior to the date of the last
17 publication of such abstract and notice, and present protests
18 and that a certified copy of the ordinance is on file with the
19 governing body for review by interested parties during the
20 office hours of the governing body. At such hearing all
21 protests and suggestions shall be heard and the governing
22 body shall take such action as it shall deem proper in the
23 premises: *Provided*, That if at such hearing written protest is
24 filed by thirty percent or more of the freeholders of the
25 municipality, then the governing body of said municipality
26 shall not take further action unless four fifths of the qualified
27 members of said governing body assent thereto.

§8-20-5. Amount, negotiability and execution of bonds; refund of outstanding obligations or securities by sale or exchange of bonds.

1 For the purpose of defraying the cost of acquisition,
2 construction, establishment or equipment of any such water-

3 works or sewerage system, or a combined waterworks
4 and sewerage system, and for the purpose of paying the cost
5 of constructing any extensions, additions, betterments or
6 improvements to either the waterworks or sewerage system
7 of said combined waterworks and sewerage system, or both,
8 any such municipality may issue revenue bonds under the
9 provisions of this article. All such bonds may be authorized,
10 issued and sold pursuant to ordinance in installments at
11 different times or an entire issue or series may be sold at one
12 time. Such bonds shall bear interest at a rate not to exceed
13 twelve percent per annum, payable at such times, and shall
14 mature within the period of usefulness of the project
15 involved, to be determined by the governing body and in any
16 event within a period of not more than forty years. Such
17 bonds may be in such denomination or denominations, may
18 be in such form, either coupon or registered, may carry such
19 registration and conversion privileges, may be executed in
20 such manner, may be payable in such medium of payment, at
21 such place or places, may be subject to such terms of
22 redemption, with or without a premium, may be declared to
23 become due before the maturity date thereof, may provide for
24 the replacement of mutilated, destroyed, stolen or lost bonds,
25 may be authenticated in such manner and upon compliance
26 with such conditions, and may contain such other terms and
27 covenants, as may be provided by ordinance of the governing
28 body of the municipality. Notwithstanding the form or tenor
29 thereof, and in the absence of an express recital on the face
30 thereof that the bond is nonnegotiable, all such bonds shall at
31 all times be, and shall be treated as, negotiable instruments
32 for all purposes. Said bonds and the interest thereon, together
33 with all properties and facilities of said municipality owned
34 or used in connection with said combined waterworks or
35 sewerage system, and all the moneys, revenues and other
36 income of such municipality derived from such combined
37 waterworks and sewerage system shall be exempt from all
38 taxation by this state or any county, municipality, political
39 subdivision or agency thereof. Such bonds may be sold in
40 such manner as the governing body shall determine. If any
41 such bonds shall be issued to bear interest at a rate of twelve
42 percent per annum, the price at which they may be sold

43 shall be such that the interest cost of such municipality of the
44 proceeds of such bonds shall not exceed thirteen percent per
45 annum computed to maturity according to the standard table
46 of bond values. If the governing body of the municipality
47 determines to sell any revenue bonds of such combined
48 waterworks and sewerage system for refunding purposes, the
49 proceeds of such bonds shall be deposited at the place of
50 payment of the bonds, obligations or securities being
51 refunded thereby. In case any officer whose signature
52 appears on such bonds or coupons attached thereto shall
53 cease to be such officer before the delivery of the bonds to the
54 purchaser, such signature shall nevertheless be valid and
55 sufficient for all purposes, with the same effect as if he had
56 remained in office until the delivery of the bonds. All
57 signatures on the bonds or coupons and the corporate seal
58 may be mechanically reproduced if authorized in the or-
59 dinance authorizing the issuance of the bonds. Such bonds
60 shall have all the qualities of negotiable instruments under
61 the laws of this state.

62 Whenever a waterworks and sewerage system is included in
63 a combined waterworks and sewerage system under the
64 provisions of this article and there are unpaid and out-
65 standing revenue bonds or any other obligations or
66 securities previously issued which are payable solely from
67 the revenues of such waterworks or such sewerage system or
68 any part thereof, such outstanding bonds, obligations or
69 securities may be refunded by the issuance and sale or
70 exchange therefor of revenue bonds to be issued under the
71 provisions of this article. Whenever any outstanding bonds,
72 obligations or securities previously issued which are payable
73 solely from the revenues of any waterworks or sewerage
74 system included in a combined waterworks and sewerage
75 system under the provisions of this article are refunded and
76 the refunding is to be accomplished by exchange, such
77 outstanding bonds, obligations or securities shall be sur-
78 rendered and exchanged for revenue bonds of such com-
79 bined waterworks and sewerage system of a total prin-
80 cipal amount which shall not be more and may be less
81 than the principal amount of the bonds, obligations or
82 securities surrendered and exchanged plus the interest to

83 accrue thereon to the date of surrender and exchange, and if
84 the refunding is to be accomplished through the sale of
85 revenue bonds of such combined waterworks and sewerage
86 system the total principal amount of such revenue bonds
87 which may be sold for refunding purposes shall not exceed
88 the principal amount of the bonds, obligations or securities
89 being refunded plus the interest to accrue thereon to the
90 retirement date or the next succeeding interest payment date,
91 whichever date may be earlier. Provision may be made that
92 each bond to be exchanged for refunding bonds shall be kept
93 intact and shall not be canceled or destroyed until the
94 refunding bonds, and interest thereon, have been finally paid
95 and discharged; but each such bond shall be stamped with a
96 legend to the effect that the same has been refunded pursuant
97 to the provisions of this article.

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**§8-20-16. Acceptance of loans or grants and procurement of loans
or temporary advances from, and contracts and agree-
ments with, state or federal agencies or private parties.**

1 Any municipality is hereby empowered and authorized to
2 accept loans or grants and procure loans or temporary
3 advances evidenced by notes or other negotiable instruments
4 issued in the manner, and subject to the privileges and
5 limitations, set forth with respect to bonds authorized to be
6 issued under the provisions of this article, for the purpose of
7 paying part or all of the cost of acquisition, construction,
8 establishment, extension or equipment of combined
9 waterworks and sewerage systems and the construction of
10 additions, betterments and improvements thereto, and for the
11 other purposes herein authorized, from any authorized
12 agency of the state or from the United States of America or
13 any federal or public agency or department of the United
14 States or any private agency, corporation or individual, which
15 loans or temporary advances, including the interest thereon,
16 may be repaid out of the proceeds of bonds authorized to be
17 issued under the provisions of this article, the revenues of the
18 said combined waterworks and sewerage system or grants to
19 the municipality from any agency of the state or from the
20 United States of America or any federal or public agency or
21 department of the United States or any private agency,

22 corporation or individual or from any combination of such
23 sources of payment, and to enter into the necessary contracts
24 and agreements to carry out the purposes hereof with any
25 agency of the state, the United States of America or any
26 federal or public agency or department of the United States,
27 or with any private agency, corporation or individual.

28 In no event shall any such loan or temporary advance be a
29 general obligation of the municipality and such loans or
30 temporary advances, including the interest thereon, shall be
31 paid solely from the sources specified in this section.

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.

ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.

§13-1-14. Resolution authorizing issuance and fixing terms of bonds.

1 If three fifths of all the votes cast for and against the
2 proposition to incur debt and issue negotiable bonds shall be
3 in favor of the same, the governing body of the political
4 division shall, by resolution, authorize the issuance of such
5 bonds in an amount not exceeding the amount stated in the
6 proposition; fix the date thereof; set forth the denomi-
7 nations in which they shall be issued, which denomi-
8 nations shall be one hundred dollars or multiples there-
9 of; determine the rate or rates of interest which the
10 bonds shall bear, which rate or rates of interest shall be within
11 the maximum rate stated in the proposition submitted to vote
12 and payable semiannually, prescribe the medium with which
13 the bonds shall be payable; require that the bonds shall be
14 made payable at the office of the state treasurer and at such
15 other place or places as the body issuing the same may desig-
16 nate; provide for a sufficient levy to pay the annual inter-
17 est on the bonds and the principal maturity; fix the times
18 within the maximum period, as contained in the proposition
19 submitted to vote, when the bonds shall become payable,
20 which shall not exceed thirty-four years from the date
21 thereof; and prescribe a form for executing the bonds autho-
22 rized.

§13-1-21. Advertisement and sale of bonds; purchase by state governmental agency.

1 The governing body of the political division issuing such
2 bonds shall sell the same and collect the proceeds, which
3 proceeds shall be deposited with its treasurer. Whenever any
4 bonds are to be sold, the body authorized to sell the same
5 shall, before offering them to the public, offer them in writ-
6 ing to the secretary of state for purchase by any of the
7 governmental agencies of the state authorized by law to
8 purchase such bonds, which offer shall be held to be an
9 offer to sell the bonds at their par value to the West Vir-
10 ginia municipal bond commission and to any other of the
11 governmental agencies of the state authorized by law to
12 purchase such bonds. If, after such offer is made, the
13 governing body of the political division making the offer shall
14 be notified in writing that none of such agencies of the state
15 has elected to purchase such bonds, or after ten days have
16 elapsed after such offer of sale has been made without an
17 acceptance by any of such agencies of the state, then the
18 governing body of the political division shall advertise such
19 bonds for sale, on sealed bids, which advertisement shall be
20 published as a Class II legal advertisement in compliance
21 with the provisions of article three, chapter fifty-nine of this
22 code, and the publication area for such publication shall be
23 the political division. The first publication shall be made at
24 least fourteen days before the date fixed for the reception of
25 bids. Such advertisement shall also be published in a
26 financial paper published either in the city of New York or
27 the city of Chicago, or in a newspaper published in a city of
28 this state having a population of not less than twenty
29 thousand inhabitants, according to the last federal census.
30 The governing body may reject any and all bids. If the bonds
31 be not sold pursuant to such advertisement, they may within
32 one hundred twenty days after the date advertised for the
33 reception of bids, be sold by the governing body at private
34 sale, but no private sale shall be made at a price less than the
35 highest bid which shall have been received. If not sold, such
36 bonds shall be readvertised in the manner herein provided. In
37 no event shall bonds be sold for less than their par value.

ARTICLE 2D. AIRPORT DEVELOPMENT BOND ACT.**§13-2D-5. Bonds issued to finance airport.**

1 All bonds issued by county commission under the
2 authority of this article shall be limited obligations of the
3 county, the principal of and interest on which shall be
4 payable out of the revenues derived from the operation of the
5 airport for which the bonds are issued or any other revenue
6 derived from such airport, less operating and maintenance
7 costs and expenses. The bonds and interest coupons issued
8 under the authority of this article shall never constitute
9 evidence of indebtedness of the county issuing the same
10 within the meaning of any constitutional provision or
11 statutory limitation and shall never constitute or give rise to a
12 pecuniary liability of the county issuing the same. Neither
13 shall such bonds and interest thereon be a charge against the
14 general credit or taxing powers of the county and such fact
15 shall be plainly stated on the face of each such bond. Such
16 bonds may be executed, issued and delivered at any time, and
17 from time to time, may be in such form and denomination,
18 may be of such tenor, must be negotiable but may be
19 registered as to the principal thereof, may be payable in such
20 amounts and at such time or times, may be payable at such
21 place or places, may bear interest at such rate or rates not to
22 exceed twelve percent per annum, payable at such place or
23 places and evidenced in such manner, and may contain such
24 provisions therein not inconsistent herewith, all as shall be
25 provided in the proceedings of the county commission
26 whereunder the bonds shall be authorized to be issued. Said
27 bonds may be sold by the county commission at public or
28 private sale, and such sale shall be made at a price not lower
29 than a price which, computed upon standard tables of bond
30 values, will have a net return of not more than thirteen
31 percent per annum to the purchaser upon the amount paid
32 therefor. The said bonds may also be issued and delivered to
33 the owners of an airport or private facility for the landing
34 and taking off of airplanes with appurtenant facilities and
35 conveniences in exchange therefor and in payment of the
36 purchase price thereof.

37 The bonds issued pursuant to this article by a county

38 commission shall be signed by the president of the county
39 commission and attested by the clerk of the county
40 commission under the seal of the commission. The coupons
41 attached thereto shall bear the facsimile signature of the
42 president of the county commission. In case any of the
43 officials whose signatures appear on the bonds or coupons
44 shall cease to be such officers before the delivery of such
45 bonds, such signatures shall, nevertheless, be valid and
46 sufficient for all purposes to the same extent as if they had
47 remained in office until such delivery.

48 If the proceeds of such bonds, by error of calculation or
49 otherwise, shall be less than the cost of the airport, additional
50 bonds may in like manner be issued to provide the amount of
51 deficiency, and unless otherwise provided for in the trust
52 agreement, mortgage, or deed of trust, shall be deemed to be
53 of the same issue, and shall be entitled to payment from the
54 same fund, without preference or priority, and shall be of
55 equal priority as to any security.

ARTICLE 2E. REVENUE BOND REFUNDING ACT.

§13-2E-3. Authority to refund.

1 Any public body may issue refunding bonds for the
2 purpose of refunding all or any part of its revenue bonds now
3 or hereafter outstanding, whether or not such revenue bonds
4 are at the time of the refunding due or optional for
5 redemption, under the circumstances and restrictions set
6 forth in this article. Refunding bonds shall be payable from
7 revenues derived from the same enterprise as the revenue
8 bonds to be refunded except where the public body has
9 outstanding revenue bonds payable from the revenues of an
10 enterprise and is authorized under any other law to combine
11 and consolidate such enterprise with another enterprise and
12 issue revenue bonds payable from the revenues of the
13 combined and consolidated enterprises. An issue of ~~the~~
14 refunding bonds may refund part or all of one or more issues
15 of outstanding revenue bonds: *Provided*, That part or all of
16 two or more issues of outstanding revenue bonds may not be
17 refunded under this article unless either (a) all of the issues of

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18 outstanding revenue bonds to be refunded are payable from
19 revenues derived from the same enterprise, or (b) the public
20 body is authorized under any other law to combine or
21 consolidate the enterprises in question and issue revenue
22 bonds payable from the revenues of the combined or
23 consolidated enterprises.

24 Refunding bonds may be issued hereunder whenever the
25 governing body of the public body deems it expedient and,
26 notwithstanding any provision in this article to the contrary,
27 may be issued as part of a series of revenue bonds issued for
28 the purpose, in addition to such refunding, of financing the
29 acquisition or construction of improvements, betterments,
30 extensions or replacements to the particular enterprise, as
31 provided by other articles of this code.

§13-2E-4. Terms, form and execution of refunding bonds.

1 Refunding bonds authorized under this article may be
2 issued in one or more series; may bear such date or dates;
3 may mature at such time or times, not exceeding the period of
4 usefulness of the enterprise, as determined by the governing
5 body in its discretion, not exceeding forty years from their
6 respective dates; may bear interest at such rate or rates; may
7 be in such denomination or denominations; may be in such
8 form either coupon or registered; may carry such registration
9 and conversion privileges; may be executed in such manner;
10 may be payable in such medium of payment, at such place or
11 places; may be subject to such terms of redemption, with or
12 without a premium; may be declared or become due before
13 the maturity date; may provide for the replacement of
14 mutilated, destroyed, stolen or lost bonds; may be authen-
15 ticated in such manner and upon compliance with such
16 conditions; and may contain such other terms and cove-
17 nants, as may be determined by the governing body in
18 the proceedings authorizing the refunding bonds. Not-
19 withstanding the form or tenor thereof, and in the ab-
20 sence of an express recital on the face thereof that the
21 bond is nonnegotiable, all refunding bonds shall at all times be,
22 and shall be treated as, negotiable instruments for all purposes.

CHAPTER 16. PUBLIC HEALTH.**ARTICLE 13. SEWAGE WORKS OF MUNICIPAL CORPORATIONS
AND SANITARY DISTRICTS.****§16-13-6. Publication of abstract of and hearing upon ordinance.**

1 After such ordinance shall have been adopted, an abstract
2 of the ordinance, determined by the governing body to
3 contain sufficient information. as to give notice of the
4 contents of such ordinance, together with the following
5 described notice, shall be published as a Class II legal
6 advertisement in compliance with the provisions of article
7 three, chapter fifty-nine of this code, and the publication area
8 for such publication shall be the municipality. The notice
9 shall state that said ordinance has been adopted, and that the
10 municipality contemplates the issuance of the bonds de-
11 scribed in the ordinance, and that any person interested may
12 appear before the governing body upon a certain date, which
13 shall not be less than ten days subsequent to the first date of
14 publication of such abstract and notice which shall not be
15 prior to the last date of publication of such abstract and
16 notice, and present protests. At such hearing all objections
17 and suggestions shall be heard and the governing body shall
18 take such action as it shall deem proper in the premises:
19 *Provided, however,* That if at such a hearing written protest is
20 filed by thirty percent or more of the owners of real estate
21 situate in said municipality, then the governing body of said
22 municipality shall not take further action unless four fifths of
23 the qualified members of the said governing body assent
24 thereto.

**§16-13-10. Interest on and redemption of bonds; form; statement
on face of bond; negotiability; exemption from taxa-
tion; registration; execution; sale; disposition of sur-
plus proceeds; additional and temporary bonds.**

1 Such revenue bonds shall bear interest at not more than
2 twelve percent per annum, payable at such times, and shall
3 mature at such time or times as may be determined by
4 ordinance. Such bonds may be made redeemable before
5 maturity at the option of the municipality, to be exercised by
6 said board, at not more than the par value thereof and a

7 premium of five percent, under such terms and conditions as
8 may be fixed by the ordinance authorizing the issuance of the
9 bonds. The principal and interest of the bonds may be made
10 payable in any lawful medium. Said ordinance shall
11 determine the form of the bonds, either coupon or registered,
12 shall set forth any registration and conversion privileges, and
13 shall fix the denomination or denominations of such bonds
14 and the place or places of payment of the principal and
15 interest thereof, which may be at any bank or trust company
16 within or without the state. The bonds shall contain a
17 statement on their face that the municipality shall not be
18 obligated to pay the same or the interest thereon except from
19 the special fund provided from the net revenues of the works.
20 All such bonds shall be, and shall have and are hereby
21 declared to have all the qualities and incidents of, negotiable
22 instruments under the Uniform Commercial Code of the
23 state. Said bonds shall be exempt from all taxation, state,
24 county and municipal. Such bonds shall be executed by the
25 proper legally constituted authorities of the municipality, and
26 be sealed with the corporate seal of the municipality, and in
27 case any of the officers whose signatures appear on the bonds
28 or coupons shall cease to be such officers, before delivery of
29 such bonds, such signatures shall nevertheless be valid and
30 sufficient for all purposes the same as if they had remained in
31 office until such delivery. Such bonds shall be sold at a price
32 not lower than a price, which when computed upon standard
33 tables of bond values, will show a net return of not more than
34 thirteen per centum per annum to the purchaser upon the
35 amount paid therefor, and the proceeds derived therefrom
36 shall be used exclusively for the purposes for which said
37 bonds are issued and same may be sold at one time or in
38 parcels as funds are needed. Any surplus of bond proceeds
39 over and above the cost of the works shall be paid into the
40 sinking fund hereinafter provided. If the proceeds of the
41 bonds, by error of calculation or otherwise, shall be less than
42 the cost of the works, additional bonds may in like manner be
43 issued to provide the amount of such deficit and, unless
44 otherwise provided in said ordinance authorizing the is-
45 suance of the bonds first issued or in the trust indenture
46 hereinafter authorized, shall be deemed to be of the same

47 issue and shall be entitled to payment without preference or
48 priority of the bonds first issued. Prior to the preparation of
49 the definitive bonds, temporary bonds may under like re-
50 strictions be issued with or without coupons, exchangeable for
51 definitive bonds upon the issuance of the latter.

**§16-13-19. Contract with other municipalities for service of works;
powers of lessee as to rates; intercepting sewers.**

1 Any municipality operating a sewage collecting system
2 and/or a sewage disposal plant or plants as defined in this
3 article, or which as herein provided has ordered the
4 construction or acquisition of such works (in this section
5 called the owner), is hereby authorized to contract with one or
6 more other municipal corporations or political subdivisions
7 within the state (in this section called the lessee), and such
8 lessees are hereby authorized to enter into such contracts
9 with such owners, for the service of such works to such
10 lessees and their inhabitants, but only to the extent of the
11 capacity of the works without impairing the usefulness
12 thereof to the owners, upon such terms and conditions as may
13 be fixed by the boards and approved by ordinances of the
14 respective contracting parties: *Provided, however,* That no
15 such contract shall be made for a period of more than forty
16 years or in violation of the provisions of said ordinance
17 authorizing bonds hereunder or in violation of the provisions
18 of said trust indenture. The lessee shall by ordinance have
19 power to establish, change and adjust rates and charges for
20 the service rendered therein by the works against the owners
21 of the premises served, in the manner hereinbefore provided
22 for establishing, changing and adjusting rates and charges for
23 the service rendered in the municipality where the works are
24 owned and operated, and such rates or charges shall be
25 collectible and shall be a lien as herein provided for rates and
26 charges made by the owner. The necessary intercepting
27 sewers and appurtenant works for connecting the works of
28 the owner with the sewerage system of the lessee shall be
29 constructed by the owner and/or the lessee upon such terms
30 and conditions as may be set forth in said contract, and the
31 cost or that part of the cost thereof which is to be borne by the
32 owner may be paid as a part of the cost of the works from the

33 proceeds of bonds issued under this article unless otherwise
34 provided by said ordinance or trust indenture prior to the
35 issuance of the bonds. The income received by the owner
36 under any such contract shall, if so provided in said
37 ordinance or trust indenture, be deemed to be a part of the
38 revenues of the works as in this article defined and be applied
39 as herein provided for the application of such revenues.

**§16-13-22a. Acceptance of loans or grants and procurement of
loans or temporary advances from, and contracts
and agreements with, state or federal agencies or
private parties.**

1 Any municipality is authorized and empowered to accept
2 loans or grants and procure loans or temporary advances
3 evidenced by notes or other negotiable instruments issued in
4 the manner, and subject to the privileges and limitations, set
5 forth with respect to bonds authorized to be issued under the
6 provisions of this article, for the purpose of paying part or all
7 of the cost of acquisition or construction of said sewage
8 works and the construction of betterments and improve-
9 ments thereto, and for the other purposes herein autho-
10 rized, from any authorized agency of the State or from
11 the United States of America or any federal or public agency
12 or department of the United States or any private agency,
13 corporation or individual, which loans or temporary ad-
14 vances, including the interest thereon, may be repaid out of
15 the proceeds of bonds authorized to be issued under the
16 provisions of this article, the revenues of the said sewage
17 works or grants to the municipality from any agency of the
18 state or from the United States of America or any federal or
19 public agency or department of the United States or any
20 private agency, corporation or individual or from any
21 combination of such sources of payment, and to enter into the
22 necessary contracts and agreements to carry out the purposes
23 hereof with any agency of the state, the United States of
24 America or any federal or public agency or department of the
25 United States, or with any private agency, corporation or
26 individual.

27 In no event shall any such loan or temporary advance be
28 a general obligation of the municipality and such loans or

29 temporary advances, including the interest thereon, shall be
30 paid solely from the sources specified in this section.

**ARTICLE 13A. PUBLIC SERVICE DISTRICTS FOR WATER, SEWER-
AGE AND GAS SERVICES.**

§16-13A-13. Revenue bonds.

1 For constructing or acquiring any public service properties
2 for the authorized purposes of the district, or necessary or
3 incidental thereto, and for constructing improvements and
4 extensions thereto, and also for reimbursing or paying the
5 costs and expenses of creating the district, the board of any
6 such district is hereby authorized to borrow money from time
7 to time and in evidence thereof issue the bonds of such
8 district, payable solely from the revenues derived from the
9 operation of the public service properties under control of the
10 district. Such bonds may be issued in one or more series, may
11 bear such date or dates, may mature at such time or times not
12 exceeding forty years from their respective dates, may bear
13 interest at such rate or rates not exceeding twelve percent per
14 annum, payable at such times, may be in such form, may
15 carry such registration privileges, may be executed in such
16 manner, may be payable at such place or places, may be
17 subject to such terms of redemption with or without
18 premium, may be declared or become due before maturity
19 date thereof, may be authenticated in any manner, and upon
20 compliance with such conditions, and may contain such
21 terms and covenants as may be provided by resolution or
22 resolutions of the board. Notwithstanding the form or tenor
23 thereof, and in the absence of any express recital on the face
24 thereof, that the bond is nonnegotiable, all such bonds shall
25 be, and shall be treated as, negotiable instruments for all
26 purposes. Bonds bearing the signatures of officers in office on
27 the date of the signing thereof shall be valid and binding for
28 all purposes notwithstanding that before the delivery thereof
29 any or all of the persons whose signatures appear thereon
30 shall have ceased to be such officers. Notwithstanding the
31 requirements or provisions of any other law, any such bonds
32 may be negotiated or sold in such manner and at such time or
33 times as is found by the board to be most advantageous, and
34 all such bonds may be sold at such price that the interest cost

35 of the proceeds therefrom does not exceed thirteen percent
36 per annum, based on the average maturity of such bonds and
37 computed according to standard tables of bond values. Any
38 resolution or resolutions providing for the issuance of such
39 bonds may contain such covenants and restrictions upon
40 the issuance of additional bonds thereafter as may be deemed
41 necessary or advisable for the assurance of the payment of the
42 bonds thereby authorized.

CHAPTER 18. EDUCATION.

ARTICLE 11. WEST VIRGINIA UNIVERSITY.

§18-11-25. Acquisition, construction, financing and regulation of parking facilities; penalties.

1 The board of regents is hereby authorized to construct,
2 maintain and operate automobile parking facilities on the
3 campus or other areas under its jurisdiction for use by
4 students, faculty, staff and visitors. Such facilities shall be
5 open to use on such terms and subject to such reasonable
6 rules and regulations as may be prescribed by the board,
7 which rules and regulations shall have the force and effect of
8 law. A summary of the rules and regulations pertaining to
9 parking and the penalties which may be imposed for any
10 violation thereof shall be posted conspicuously in each park-
11 ing area.

12 No person shall park any vehicle in violation of such rules
13 and regulations, and any person parking any vehicle contrary
14 thereto shall be subject to a fine of not less than one dollar nor
15 more than five dollars for each offense. Magistrates in
16 Monongalia County and the police court and police court
17 judge of Morgantown, West Virginia, shall have jurisdiction
18 of all such offenses.

19 In addition, the board shall have the authority, whenever
20 any vehicle is parked in a university parking facility in
21 violation of the posted rules and regulations, to remove the
22 vehicle, by towing or otherwise, to an established garage or
23 parking lot for storage until called for by the owner or his
24 agent. In such case, the owner shall be liable for the
25 reasonable cost of such removal and storage, and until

26 payment of such cost the garage or parking lot operator may
27 retain possession of the vehicle subject to a lien for the
28 amount due. The garage or parking lot operator may enforce
29 his lien for towing and storage in the manner provided in
30 section fourteen, article eleven, chapter thirty-eight of this
31 code for the enforcement of other liens.

32 The board shall have authority to charge fees for the use of
33 parking facilities under its control. All moneys collected for
34 such use shall be paid into a special fund which is hereby
35 created in the state treasury. The moneys in such fund shall
36 be used first to pay the cost of maintaining and operating
37 such facilities, but any excess not needed for this purpose
38 may be used to finance the construction of additional parking
39 facilities or the acquisition by lease or purchase of additional
40 parking areas. The board may use the moneys in such special
41 fund to finance the costs of the above purposes on a cash
42 basis, or may from time to time issue revenue bonds of the
43 state as provided in this section to finance such costs and
44 pledge all or any part of the moneys in such special funds for
45 the payment of the principal of and interest on such revenue
46 bonds, and for reserves therefor. Whenever parking facilities
47 are provided in any university building financed in whole or
48 in part by the issue of revenue bonds otherwise authorized by
49 law, the net revenue derived from the parking facilities in-
50 cluded in such building may be used or pledged to meet the
51 sinking fund requirements of the bonds issued for con-
52 struction of the buildings. The pledge of moneys in such
53 special fund for any revenue bonds shall be a prior and
54 superior charge on such special fund over the use of any of
55 the moneys in such fund to pay for the cost of any of such
56 purposes on a cash basis.

57 Such revenue bonds may be authorized and issued from
58 time to time by the board of regents to finance in whole or in
59 part the purposes provided in this section in an aggregate
60 principal amount not exceeding the amount which the board
61 shall determine can be paid as to both principal and interest
62 and reasonable margins for a reserve therefor from the
63 moneys in such special fund.

64 The issuance of such bonds shall be authorized by a

65 resolution adopted by the board, and such revenue bonds
66 shall bear such date or dates; mature at such times not
67 exceeding forty years from their respective dates; bear
68 interest at such rate or rates, not exceeding twelve per
69 centum per annum; be in such form either coupon or
70 registered, with such exchangeability and interchangeability
71 privileges; be payable in such medium of payment and at
72 such place or places, within or without the state; be subject to
73 such terms of prior redemption at such prices not exceeding
74 one hundred six per centum of the principal amount thereof;
75 and shall have such other terms and provisions as the board
76 shall determine. Such revenue bonds shall be signed by the
77 governor and by the president of the board of regents, under
78 the great seal of the state, attested by the secretary of state,
79 and the coupons, if any, attached thereto shall bear the
80 facsimile signature of the president of the board. Such
81 revenue bonds shall be sold in such manner as the board may
82 determine to be for the best interest of the state, such sale to
83 be made at a price not lower than a price which will show a
84 net return of not more than thirteen per centum per annum to
85 the purchaser upon the amount paid therefor computed to
86 the stated maturity dates of such revenue bonds without re-
87 gard to any right of prior redemption.

88 The board may enter into trust agreements with banks or
89 trust companies, within or without the state, and in such trust
90 agreements or the resolutions authorizing the issuance of
91 such bonds may enter into valid and legally binding
92 covenants with the holders of such revenue bonds as to the
93 custody, safeguarding and disposition of the proceeds of such
94 revenue bonds, the moneys in such special fund, sinking
95 funds, reserve funds, or any other moneys or funds; as to the
96 rank and priority, if any, of different issues of revenue bonds
97 under the provisions of this section; and as to any other
98 matters or provisions which are deemed necessary and
99 advisable by the board in the best interests of the state and to
100 enhance the marketability of such revenue bonds.

101 Such revenue bonds shall be and constitute negotiable
102 instruments under the law merchant and the negotiable
103 instruments law of the state; shall, together with the interest

104 thereon, be exempt from all taxation by the state of West
105 Virginia, or by any county, school district, municipality or
106 political subdivision thereof; and such revenue bonds shall
107 not be deemed to be obligations or debts of the state, and the
108 credit or taxing power of the state shall not be pledged
109 therefor, but such revenue bonds shall be payable only from
110 the revenue pledged therefor as provided in this section.

**ARTICLE 24. FEES AND OTHER MONEY COLLECTED AT STATE
INSTITUTIONS OF HIGHER EDUCATION.**

**§18-24-6. Disposition and use of student union fees; issuance of
revenue bonds.**

1 Whenever the term "student union building" is used in this
2 section the same shall mean a student union building or a
3 combination student union building and dining hall building;
4 and wherever the term "building fund" is used in this section
5 the same shall mean the respective special student union
6 building funds created as provided in section one of this
7 article for each state educational institution which has
8 imposed student union fees pursuant to section one of this
9 article, to be expended by the West Virginia board of regents
10 for the benefit of the state educational institutions under
11 its control.

12 The West Virginia board of regents may make expenditures
13 from such building funds at the various state educational
14 institutions under its control to finance in whole or in part
15 together with any federal, state or other grants or contribu-
16 tions, any one or more of the following purposes:

17 (1) The construction and acquisition of new student union
18 buildings. (2) The acquisition, renovation and improvement
19 of existing buildings to be used as student union buildings.
20 (3) The construction of additions, extensions and im-
21 provements to existing student union buildings. (4) The
22 acquisition of furnishings and equipment for any existing
23 student union buildings or student union buildings to be
24 constructed or acquired, or the construction of any roads,
25 utilities or other properties, real or personal, or for any
26 other purposes necessary, appurtenant or incidental to the
27 construction, acquisition, financing and placing in operation

28 of such student union buildings. (5) The payment of the cost
29 of operation and maintenance of such student union
30 buildings, subject however to any covenants or agreements
31 made with the holders of revenue bonds heretofore and
32 hereafter issued pursuant to this section or pursuant to
33 section one of this article.

34 The West Virginia board of regents, at its discretion, may
35 use the moneys in such building funds to finance the costs of
36 the above purposes on a cash basis, or may from time to time
37 issue revenue bonds of the state as provided in this section to
38 finance all or part of such purposes and pledge all or any part
39 of the moneys in such building funds for the payment of the
40 principal of and interest on such revenue bonds, and for
41 reserves therefor. Any pledge of such building funds for such
42 revenue bonds shall be a prior and superior charge on such
43 special funds over the use of any of the moneys in such funds
44 to pay for the cost of any of such purposes on a cash basis, or
45 for the payment of the cost of operation and maintenance, or
46 any part thereof, of such student union buildings, under such
47 terms and conditions as shall be provided in the proceedings
48 which authorized the issuance of such revenue bonds.

49 Such revenue bonds may be authorized and issued from
50 time to time by the West Virginia board of regents to finance
51 in whole or in part the purposes at any state educational
52 institution under its control provided for in this section in an
53 aggregate principal amount not exceeding the amount which
54 the board shall determine can be paid as to both principal and
55 interest and reasonable margins for a reserve therefor from
56 the moneys in such building funds.

57 The issuance of such revenue bonds shall be authorized by
58 a resolution adopted by the West Virginia board of regents,
59 and such revenue bonds shall bear such date or dates; mature
60 at such time or times not exceeding forty years from their
61 respective dates; bear interest at such rate or rates, not
62 exceeding twelve per centum per annum; be in such form
63 either coupon or registered, with such exchangeability and
64 interchangeability privileges; be payable in such medium of
65 payment and at such place or places, within or without the
66 State; be subject to such terms of prior redemption at such
67 prices not exceeding one hundred five per centum of the

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68 principal amount thereof; and shall have such other terms
69 and provisions as the board shall determine. Such revenue
70 bonds shall be signed by the governor and by the president of
71 the West Virginia board of regents, under the great seal of the
72 state, attested by the secretary of state, and the coupons
73 attached thereto shall bear the facsimile signature of the
74 president of the West Virginia board of regents. Such revenue
75 bonds shall be sold in such manner as the board may
76 determine to be for the best interests of the State.

77 The West Virginia board of regents may enter into trust
78 agreements with banks or trust companies, within or without
79 the State, and in such trust agreements or the resolutions
80 authorizing the issuance of such bonds may enter into valid
81 and legally binding covenants with the holders of such
82 revenue bonds as to the custody, safeguarding and dis-
83 position of the proceeds of such revenue bonds, the
84 moneys in such building funds, sinking funds, reserve funds, or
85 any other moneys or funds; as to the rank and priority, if
86 any, of different issues of revenue bonds issued by the board
87 for the same educational institution under the provisions of
88 this section; as to the maintenance or revision of the amounts
89 of such student union fees, and the terms and conditions, if
90 any, under which any of such student union fees may be
91 reduced; and as to any other matters or provisions which are
92 deemed necessary and advisable by the board in the best
93 interests of the state and to enhance the marketability of such
94 revenue bonds.

95 Any revenues or income derived from the operation of such
96 student union buildings may, in the discretion of the board,
97 be used to pay the cost of the operation and maintenance of
98 such student union buildings, or for the debt service on any
99 bonds issued pursuant to this section or pursuant to any
100 other law.

101 After the issuance of any of such revenue bonds, the
102 student union fees at the state educational institution for
103 which such revenue bonds were issued shall not be reduced
104 as long as any of such revenue bonds are outstanding and
105 unpaid except under such terms, provisions and conditions
106 as shall be contained in the resolution, trust agreement or

107 other proceedings under which such revenue bonds were
108 issued.

109 Such revenue bonds shall be and constitute negotiable
110 instruments under the Uniform Commercial Code of the
111 State and shall, together with the interest thereon, be exempt
112 from all taxation by the state of West Virginia, or by any
113 county, school district, municipality or political subdivision
114 thereof; and such revenue bonds shall not be deemed to be
115 obligations or debts of the state, and the credit or taxing
116 power of the state shall not be pledged therefor, but such
117 revenue bonds shall be payable only from the student union
118 fees pledged therefor as provided in this section.

119 The provisions of this section shall constitute an additional,
120 alternative and complete authority for the exercise of the
121 powers and the issuance of the bonds provided for in this
122 section, but shall not prevent the West Virginia board of
123 regents from exercising similar or related powers or issuing
124 bonds therefor under any other law or laws, but the board, in
125 exercising the powers and issuing the bonds provided for in
126 this section, shall only be required to comply with the pro-
127 visions of this section and shall not be required to comply
128 with or be subject to the provisions of any other law or laws.

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

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House.

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within *is approved* this the *21*
day of *May*, 1981.

[Signature]
Governor



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