

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986



ENROLLED

*Committee Substitute*  
SENATE BILL NO. 459

(By Senator.....*Tomblin*.....)



PASSED .....*March 8,*..... 1986

In Effect.....*90 days from*.....Passage



# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## Senate Bill No. 459

(SENATOR TOMBLIN, *original sponsor*)

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[Passed March 8, 1986; in effect ninety days from passage.]

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AN ACT to amend and reenact sections one, twelve and seventeen, article nineteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections twelve and sixteen, article twenty of said chapter, as amended; to further amend said article twenty by adding thereto a new section, designated section one-b; to amend and reenact sections two, five and seven, article two-e, chapter thirteen of said code as amended; that said chapter thirteen be further amended by adding thereto a new article, designated article two-f; to amend and reenact sections one, fifteen and twenty-two-a, article thirteen, chapter sixteen of said code; and to amend and reenact section twenty-four, article thirteen-a of said chapter, all relating to bonded indebtedness upon municipal waterworks sewer systems and electric power systems; permitting the severance of combined municipal waterworks and sewage system and combined waterworks and electric power systems and the creation of a special fund for such purposes; permitting the severance of combined municipal waterworks and sewage systems; providing for the cancellation of outstanding bonded indebtedness upon such combined waterworks and sewage systems; permitting the reorganization of the

governing board of such combined systems of the separate boards upon severance; acquisition of municipal waterworks system resulting from the severance of a combined waterworks and sewerage system included in the definition of enterprise; authorization of refunding bonds for a combined waterworks and sewage system; and providing that a municipality may acquire sewerage system resulting from the severance of a combined waterworks and sewerage system; the creation of a special fund for municipal waterworks and electric power system bond requirements with the West Virginia municipal bond commission; providing direct payment of requirements on such bonds owned by the United States of America or any agency or department thereof; payment of interest on temporary financing for municipal waterworks and electric power systems from the proceeds of such financing until the maturity thereof; the creation from revenues of a special fund for municipal combined waterworks and sewerage system bond requirements with the West Virginia municipal bond commission; providing for direct payment of requirements on such bonds owned by the United States of America or any agency or department thereof; payment of interest on temporary financing for combined municipal waterworks and sewerage systems from the proceeds of such financing until the maturity thereof; authorizing the appointment of a corporate trustee to act as escrow agent for the proceeds of refunding bonds; the issuance by public bodies of public obligations in registered or book-entry form; purpose of the article and that the article governs over charter provisions; defining terms; authorizing issuance in registered and book-entry form; powers of the registrar or his designee; allowing confidentiality and setting forth the application of the article to public obligations approved by voters; creation from net revenues of a municipal bond fund for municipal and sanitary district sewage bonds with the West Virginia municipal bond commission; providing for direct payment of bonds owned by the United States of America or any agency or department thereof; payment of interest on temporary financing for sewage works of municipal corporations and sanitary districts from the proceeds of such financing until the maturity thereof; and payment of interest on temporary financing for public

service districts for water, sewerage and gas services from the proceeds of such financing until the maturity thereof.

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

That sections one, twelve and seventeen, article nineteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections twelve and sixteen, article twenty of said chapter eight be amended and reenacted; that said article twenty be further amended by adding thereto a new section, designated section one-b; that sections two, five and seven, article two-e, chapter thirteen of said code be amended and reenacted; that said chapter thirteen be further amended by adding thereto a new article, designated article two-f; that sections one, fifteen and twenty-two-a, article thirteen, chapter sixteen of said code be amended and reenacted; and that section twenty-four, article thirteen-a of said chapter be amended and reenacted, all to read as follows:

#### **CHAPTER 8. MUNICIPAL CORPORATIONS.**

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

###### **§8-19-1. Acquisition and operation of municipal waterworks systems; construction of improvements to municipal electric power systems; extension beyond corporate limits; definitions.**

1 Subject to and in accordance with the provisions of this  
2 article, any municipality may acquire, construct, establish,  
3 extend, equip, repair, maintain and operate, or lease to  
4 others for operation, a waterworks system, including  
5 acquisition of the municipal waterworks system resulting  
6 from the severance of a combined waterworks and sewerage  
7 system pursuant to section one-b, article twenty of this  
8 chapter, or construct, maintain and operate additions,  
9 betterments and improvements to an existing waterworks  
10 system or an existing electric power system,  
11 notwithstanding any provision or limitation to the contrary  
12 in any other law or charter: *Provided*, That such  
13 municipality shall not serve or supply water facilities or  
14 electric power facilities or services within the corporate  
15 limits of any other municipality without the consent of the  
16 governing body of such other municipality.

17 When used in this article, the term "waterworks system"  
18 shall be construed to mean and include a waterworks  
19 system in its entirety or any integral part thereof, including  
20 mains, hydrants, meters, valves, standpipes, storage tanks,  
21 pump tanks, pumping stations, intakes, wells, impounding  
22 reservoirs, pumps, machinery, purification plants,  
23 softening apparatus and all other facilities necessary,  
24 appropriate, useful, convenient or incidental in connection  
25 with or to a water supply system.

26 When used in this article, the term "electric power  
27 system" means a system or facility which produces electric  
28 power in its entirety or any integral part thereof, including,  
29 but not limited to, power lines and wires, power poles, guy  
30 wires, insulators, transformers, generators, cables, power  
31 line towers, voltage regulators, meters, power substations,  
32 machinery and all other facilities necessary, appropriate,  
33 useful, or convenient or incidental in connection with or to  
34 an electric power supply system.

**§8-19-12. Service charges; sinking fund; amount of bonds;  
additional bonds; surplus.**

1 (a) Every municipality issuing bonds under the  
2 provisions of this article shall thereafter, so long as any of  
3 such bonds remain outstanding, repair, maintain and  
4 operate its waterworks or electric power system as  
5 hereinafter provided and shall charge, collect and account  
6 for revenues therefrom as will be sufficient to pay all repair,  
7 maintenance and operation costs, provide a depreciation  
8 fund, retire the bonds and pay the interest requirements of  
9 the bonds as the same become due. The ordinance pursuant  
10 to which any such bonds are issued shall pledge the  
11 revenues derived from the waterworks or electric power  
12 system to the purposes aforesaid and shall definitely fix and  
13 determine the amount of revenues which shall be necessary  
14 and set apart in a special fund for the bond requirements.  
15 The amounts as and when so set apart into said special fund  
16 for the bond requirements shall be remitted to the West  
17 Virginia municipal bond commission to be retained and  
18 paid out by said commission consistent with the provisions  
19 of this article and the ordinance pursuant to which such  
20 bonds have been issued: *Provided*, That payment of  
21 principal of and interest on any bonds owned by the United

22 States of America or any agency or department thereof may  
 23 be made by the municipality directly to the United States of  
 24 America or said agency or department thereof. The bonds  
 25 hereby authorized shall be issued in such amounts as may  
 26 be determined necessary to provide funds for the purpose  
 27 for which they are authorized, and in determining the  
 28 amount of bonds to be issued it shall be proper to include  
 29 interest on the bonds for a period not beyond six months  
 30 from the estimated date of completion.

31 (b) If the proceeds of the bonds, because of error or  
 32 otherwise, shall be less than the cost of the property or  
 33 undertaking for which authorized, additional bonds may be  
 34 issued to provide the amount of such deficit and such  
 35 additional bonds shall be deemed to be of the same issue and  
 36 shall be entitled to payment from the same fund without  
 37 preference or priority over the bonds first authorized and  
 38 issued.

39 (c) If the proceeds of the bonds shall exceed the cost of  
 40 the property or undertaking, the surplus shall be converted  
 41 into the fund thereon.

PART V. GRANTS, LOANS AND ADVANCES; CUMULATIVE AUTHORITY.

**§8-19-17. Grants, loans and advances.**

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  
 4 instruments issued in the manner, and subject to the  
 5 privileges and limitations, set forth with respect to bonds  
 6 authorized to be issued under the provisions of this article,  
 7 for the purpose of paying part or all of the cost of  
 8 acquisition, construction, establishment, extension or  
 9 equipment of waterworks systems and the construction of  
 10 additions, betterments and improvements to existing  
 11 waterworks systems or to existing electric power systems,  
 12 and for the other purposes herein authorized, from any  
 13 authorized agency of the state or from the United States of  
 14 America or any federal or public agency or department of  
 15 the United States or any private agency, corporation or  
 16 individual, which loans or temporary advances, including  
 17 the interest thereon, may be repaid out of the proceeds of  
 18 bonds authorized to be issued under the provisions of this  
 19 article, the revenues of the said waterworks system or

20 electric power system or grants to the municipality from  
21 any agency of the state or from the United States of America  
22 or any federal or public agency or department of the United  
23 States or any private agency, corporation or individual or  
24 from any combination of such sources of payment, and to  
25 enter into the necessary contracts and agreements to carry  
26 out the purposes hereof with any agency of the state, the  
27 United States of America or any federal or public agency or  
28 department of the United States, or with any private  
29 agency, corporation or individual. Any other provisions of  
30 this article to the contrary notwithstanding, interest on any  
31 such loan or temporary advance may be paid from the  
32 proceeds thereof until the maturity of such notes or other  
33 negotiable instrument.

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

**ARTICLE 20. COMBINED WATERWORKS AND SEWERAGE SYSTEMS.**

**§8-20-1b. Severance of combined system.**

1 Any municipality which has combined its waterworks  
2 and sewerage system under the provisions of this article, or  
3 pursuant to provisions of any other law, may hereafter sever  
4 said combined waterworks and sewerage system if the  
5 following conditions are met:

6 (a) An ordinance is enacted by the governing body of the  
7 municipality severing the combined waterworks and  
8 sewerage system into a separate waterworks system and a  
9 separate sewerage system.

10 (b) If revenue bonds or notes or other obligations with a  
11 lien on or pledge of the revenues of said combined  
12 waterworks and sewerage system, or any part thereof, are  
13 outstanding, then the municipality must provide in said  
14 ordinance (i) that the severance of the combined  
15 waterworks and sewerage system is not effective until all  
16 such outstanding revenue bonds or notes or other  
17 obligations with a lien on or pledge of the revenues of the  
18 system, or any part thereof, are paid and (ii) the method for  
19 paying said outstanding revenue bonds or notes or other  
20 obligations. For the purposes of this section, said

21 municipality may provide for payment of said outstanding  
22 revenue bonds or notes or other obligations by:

23 (1) Depositing moneys and funds with the West Virginia  
24 municipal bond commission or in escrow with a corporate  
25 trustee, which may be a trust company or bank having  
26 powers of a trust company within or without the state of  
27 West Virginia selected by the issuer to pay interest when  
28 due and to pay principal when due, whether at maturity or  
29 earlier redemption;

30 (2) Depositing securities with the municipal bond  
31 commission or said escrow trustee, the principal of and  
32 earnings on which will provide moneys sufficient to pay  
33 interest when due and to pay principal when due, whether  
34 at maturity or earlier redemption; or

35 (3) Depositing with the municipal bond commission or  
36 said escrow trustee any combination of the foregoing  
37 sufficient to pay interest when due and to pay principal  
38 when due, whether at maturity or earlier redemption.

39 (c) If the combined waterworks and sewerage system is  
40 under the supervision and control of a separate committee,  
41 board or commission, then the governing body of the  
42 municipality must provide for the dissolution of such  
43 committee, board or commission, and the creation of such  
44 other committees, boards or commissions as may be  
45 required by law.

**§8-20-12. Use of revenues; sinking fund.**

1 All revenues derived from the operation of any combined  
2 waterworks and sewerage system under the provisions of  
3 this article shall be set aside as collected and used only for  
4 the purpose of paying the cost of repairing, maintaining and  
5 operating such system, providing an adequate reserve fund,  
6 an adequate depreciation fund, and paying the principal of  
7 and interest upon the revenue bonds issued by the  
8 municipality under the provisions of this article. The  
9 ordinance pursuant to which any such bonds are issued  
10 shall pledge the revenues derived from the combined  
11 waterworks and sewerage system to the purposes aforesaid  
12 and shall definitely fix and determine the amount of  
13 revenues which shall be necessary and set apart in a special  
14 fund for the bond requirements. The amounts as and when  
15 so set apart into said special fund for the bond requirements

16 shall be remitted to the West Virginia municipal bond  
17 commission to be retained and paid out by said commission  
18 consistent with the provisions of this article and the  
19 ordinance pursuant to which such bonds have been issued:  
20 *Provided*, That payments of principal of and interest on any  
21 bonds owned by the United States of America or any agency  
22 or department thereof may be made by the municipality  
23 directly to the United States of America or said agency or  
24 department thereof.

PART IV. GRANTS, LOANS AND ADVANCES; CUMULATIVE  
AUTHORITY.

**§8-20-16. Grants, loans and advances.**

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  
4 instruments issued in the manner, and subject to the  
5 privileges and limitations, set forth with respect to bonds  
6 authorized to be issued under the provisions of this article,  
7 for the purpose of paying part or all of the cost of  
8 acquisition, construction, establishment, extension or  
9 equipment of combined waterworks and sewerage systems  
10 and the construction of additions, betterments and  
11 improvements thereto, 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  
14 agency or department of the United States or any private  
15 agency, corporation or individual, which loans or  
16 temporary advances, including the interest thereon, may be  
17 repaid out of the proceeds of bonds authorized to be issued  
18 under the provisions of this article, the revenues of the said  
19 combined waterworks and sewerage system or grants to the  
20 municipality from any agency of the state or from the  
21 United States of America or any federal or public agency or  
22 department of the United States or any private agency,  
23 corporation or individual or from any combination of such  
24 sources of payment, and to enter into the necessary  
25 contracts and agreements to carry out the purposes hereof  
26 with any agency of the state, the United States of America  
27 or any federal or public agency or department of the United  
28 States, or with any private agency, corporation or  
29 individual. Any other provisions of this article

30 notwithstanding, interest on any such loans or temporary  
 31 advances may be paid from the proceeds thereof until the  
 32 maturity of such notes or other negotiable instrument.

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

### **CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.**

#### **ARTICLE 2E. REVENUE BOND REFUNDING ACT.**

##### **§13-2E-2. Definitions.**

1 The following terms or words wherever used or referred  
 2 to in this article shall have the following meaning, unless a  
 3 different meaning plainly appears from the context:

4 The term "public body" means any city, town, village,  
 5 county, public service district, sanitary district, political  
 6 subdivision or any other similar public entity now or  
 7 hereafter created, and the state of West Virginia acting  
 8 through any of its agencies, boards, commissions or  
 9 departments, having power to issue revenue bonds.

10 The term "governing body" means a board, council or  
 11 other body having power to borrow money on behalf of a  
 12 public body.

13 The term "law" means any act or statutes, general, special  
 14 or local, of this state, including, without being limited to,  
 15 the charter of any public body.

16 The term "enterprise" means any work, undertaking, or  
 17 project which the public body is or may hereafter be  
 18 authorized to acquire or construct and from which the  
 19 public body has heretofore derived or may hereafter derive  
 20 revenues, for the refinancing of which enterprise refunding  
 21 bonds are issued under this article, and such enterprise  
 22 shall include all improvements, betterments, extensions  
 23 and replacements thereto, and all appurtenances, facilities,  
 24 lands, rights in land, water rights, franchises, and  
 25 structures in connection therewith or incidental thereto;  
 26 and for the purposes of this article "enterprise" includes the  
 27 waterworks system or the sewerage system, or both said  
 28 systems, resulting from the severance of a combined  
 29 waterworks and sewerage system pursuant to section one-  
 30 b, article twenty, chapter eight of this code, all as the

31 governing body shall authorize in the ordinance  
32 authorizing said severance.

33 The term "revenues" means all fees, tolls, rates, rentals  
34 and charges to be levied and collected in connection with  
35 and all other income and receipts of whatever kind or  
36 character derived by the public body from the operation of  
37 any enterprise or arising from any enterprise, and including  
38 earnings derived from investments and bank deposits.

39 The term "revenue bonds" means notes, bonds,  
40 certificates or other obligations of a public body heretofore  
41 or hereafter issued and outstanding under any law and  
42 which by their terms are payable from the revenues derived  
43 by such public body from the operation of an enterprise.

44 The term "refunding bonds" means notes, bonds,  
45 certificates or other obligations of a public body issued  
46 pursuant to this article.

47 The term "holder of bonds" or "bondholder" or any  
48 similar term means any person who shall be the bearer of  
49 any outstanding refunding bond or refunding bonds  
50 registered to bearer or not registered, or the registered  
51 owner of any such outstanding refunding bond or refunding  
52 bonds which shall at the time be registered other than to  
53 bearer.

54 The words "net interest cost" when referring to an  
55 outstanding issue of revenue bonds to be refunded, means  
56 the total amount of interest which would accrue on such  
57 revenue bonds from the date of the refunding bonds to the  
58 respective maturity dates of the outstanding revenue bonds  
59 to be refunded, without regard to any retained options of  
60 redemption.

61 The words "net interest cost" when referring to a  
62 proposed issue of refunding bonds, means the total amount  
63 of interest to accrue on the refunding bonds from their date  
64 to their respective maturities, without regard to any  
65 retained options of redemption, plus the amount of any  
66 discount below par or less the amount of any premium  
67 above par at which the bonds may be sold.

68 The words "net effective interest rate" when referring to  
69 a proposed issue of refunding bonds, means the net interest  
70 cost of said refunding bonds divided by the product  
71 obtained by multiplying the aggregate principal amount of  
72 such refunding bonds maturing on each maturity date by

73 the number of years from the date of the refunding bonds to  
74 their respective maturities, without regard to any retained  
75 options of redemption.

76 The term “certified public accountant” means an  
77 independent certified public accountant or firm of certified  
78 public accountants licensed to practice in this state.

79 Words importing the singular number shall include the  
80 plural number in each case and vice versa, and words  
81 importing persons shall include firms and corporations.

**§13-2E-5. Issuance of refunding bonds; application of  
proceeds.**

1 Refunding bonds issued under this article may be  
2 exchanged for not less than a like principal amount of the  
3 revenue bonds to be refunded, or may be sold at public or  
4 private sale, or may be exchanged in part and sold in part, in  
5 such manner and upon such terms as may be determined by  
6 the governing body to be for the best interests of the public  
7 body: *Provided*, That such refunding bonds shall not be sold  
8 or exchanged at a price lower than a price which will show a  
9 net saving to the issuer after deducting all expenses of the  
10 refunding: *Provided, however*, That if the governing body  
11 determines that one of the purposes of issuing such  
12 refunding bonds is to effect the release, termination or  
13 modification of liens, restrictions, conditions or limitations  
14 imposed in connection with the bonds which are to be  
15 refunded, then such refunding bonds may be issued without  
16 the necessity of showing a net saving to the issuer, in which  
17 event such refunding bonds shall bear interest at such rate  
18 or rates as the governing body may determine, but such rate  
19 or rates shall not exceed the maximum stated rate of  
20 interest which the revenue bonds to be refunded thereby  
21 could bear if they were being issued as of the date of  
22 issuance of such refunding bonds, and such refunding  
23 bonds may not be sold or exchanged at a price which would  
24 result in a net interest cost in excess of the maximum net  
25 interest cost which the revenue bonds to be refunded could  
26 be sold or exchanged for if they were being issued as of the  
27 date of issuance of such refunding bonds.

28 If any such refunding bonds are to be sold, they may be  
29 issued in such principal amount as may be determined  
30 advisable by the governing body including, without

31 limitation, the aggregate principal amount of the revenue  
32 bonds to be refunded, interest accrued and to accrue to the  
33 date or dates on which the revenue bonds being refunded  
34 are scheduled to mature or to be redeemed prior to  
35 maturity, any redemption premiums which must be paid in  
36 order to refund such outstanding revenue bonds and any  
37 costs and expenses of issuing the refunding bonds and  
38 providing for retirement of revenue bonds to be refunded. If  
39 sold, the net proceeds shall either be immediately applied to  
40 the payment or redemption and retirement of the revenue  
41 bonds to be refunded, or the net proceeds of the refunding  
42 bonds may be invested at the discretion and under the  
43 supervision of the escrow agent in whole, or in part, (a) in  
44 direct obligations issued by the United States of America or  
45 one of its agencies, (b) in obligations unconditionally  
46 guaranteed by the United States of America as to principal  
47 and interest, or (c) in certificates of deposit of a banking  
48 corporation or association which is a member of the federal  
49 deposit insurance corporation, or successor; but any such  
50 certificates of deposit must be fully secured as to both  
51 principal and interest by pledged collateral consisting of  
52 direct obligations of or obligations guaranteed by the  
53 United States of America having a market value, excluding  
54 accrued interest, at all times at least equal to the amount of  
55 the principal of an accrued interest on such certificates of  
56 deposit. Any such investments must mature, or be payable  
57 in advance of maturity at the option of the holder, and must  
58 bear interest in such manner as to provide funds which,  
59 together with uninvested money placed in the hereinafter  
60 mentioned escrow, will be sufficient to pay when due or  
61 called for redemption the revenue bonds refunded, together  
62 with interest accrued and to accrue thereon and redemption  
63 premiums, if any, and such refunding bond proceeds or  
64 obligations so purchased therewith shall, and with other  
65 funds legally available to the public body for such purpose  
66 may, be deposited in escrow with the West Virginia  
67 municipal bond commission or a corporate trustee, which  
68 may be a trust company or bank having powers of a trust  
69 company within or without the state of West Virginia, to be  
70 selected by the issuer to be held in trust for the payment and  
71 redemption of the revenue bonds refunded, and such money  
72 and obligations and any reinvestment thereof shall be held

73 in trust by such escrow agent for the payment of interest on  
 74 the refunded bonds when due, and principal thereof and  
 75 applicable redemption premiums, if any, when due, or upon  
 76 the date or dates for which they shall have been called for  
 77 redemption, or upon an earlier voluntary surrender at the  
 78 option of the escrow agent; provided if interest earned by  
 79 any investment in such escrow is shown to be in excess of  
 80 the amounts required from time to time for the payment of  
 81 interest on and principal of the refunded revenue bonds,  
 82 including applicable redemption premium, then such  
 83 excess may be withdrawn from escrow and disbursed by the  
 84 public body as are other revenues of the enterprise. Any  
 85 moneys in the sinking or reserve funds or other funds  
 86 maintained for the outstanding revenue bonds to be  
 87 refunded may be applied in the same manner and for the  
 88 same purpose as are the net proceeds of refunding bonds or  
 89 may be deposited in the special fund or any reserve funds  
 90 established for account of the refunding bonds. The term  
 91 "net proceeds" as used above shall mean the gross proceeds  
 92 of the refunding bonds after the deduction therefrom of all  
 93 accrued interest, costs and expenses incurred in connection  
 94 with the authorization and issuance of the refunding bonds  
 95 and the retirement of the outstanding revenue bonds, and  
 96 including all costs and expenses resulting from price  
 97 variations to par or otherwise incurred in the purchase of  
 98 obligations for escrow and in the disposition of the  
 99 refunding bonds.

**§13-2E-7. Authorization for issuance.**

1 Refunding bonds and all acts required to be authorized  
 2 hereunder shall be authorized in the manner in which the  
 3 bonds to be refunded were authorized and issued: *Provided,*  
 4 That refunding bonds of a system resulting from the  
 5 severance of a combined municipal waterworks and  
 6 sewerage system shall to the extent applicable be  
 7 authorized and issued under the terms and provisions of  
 8 law, including, but not limited to, interest rates and net  
 9 interest costs, under which revenue bonds of such resulting  
 10 system would be authorized and issued.

**ARTICLE 2F. PUBLIC OBLIGATIONS REGISTRATION ACT.**

**§13-2F-1. How article cited.**

1 This article may be cited as "Public Obligations  
 2 Registration Act."

**§13-2F-2. Purposes; article governs over charter provisions.**

1 The purpose of this article is to provide a mechanism for  
2 public bodies in the state to issue public obligations in  
3 compliance with section 310(b)(1) of the tax equity and  
4 fiscal responsibility act of one thousand nine hundred  
5 eighty-two, United States Internal Revenue Code section  
6 103(j), as amended.

7 To fulfill the purpose, this article shall govern  
8 notwithstanding any charter provisions.

**§13-2F-3. Definitions.**

1 The following terms wherever used or referred to in this  
2 article shall have the following meanings, unless a different  
3 meaning plainly appears from the context.

4 The term “public body” means any city, town, county  
5 commission, building commission, board of education,  
6 public service district, political subdivision or any other  
7 public entity, whether created before, on or after the  
8 effective date of this article, and the state of West Virginia  
9 acting through any of its agencies, boards, commissions or  
10 departments, having power to issue public obligations.

11 The term “public obligation” means notes, bonds,  
12 certificates or other obligations of a public body issued and  
13 outstanding on and after the first day of July, one thousand  
14 nine hundred eighty-six.

15 The term “registered” means, with respect to a public  
16 obligation, an obligation the ownership of which is noted on  
17 books of registration kept by a registrar and which is  
18 represented by certificates or other instruments to which no  
19 coupons for interest payments are attached.

20 The term “book-entry” means, with respect to a public  
21 obligation, an obligation the ownership of which is noted on  
22 books of registration kept by a registrar, but which  
23 ownership is not represented by any instrument.

24 The term “official registrar” means the official  
25 designated by the specific provisions of this code pursuant  
26 to which a public obligation is issued as the registrar of the  
27 public obligation and, in lieu of statutory designation, the  
28 person so designated by the act of the public body  
29 authorizing the issuance of the specific public obligation.

**§13-2F-4. Authority to issue public obligations in registered and book entry forms.**

1 Notwithstanding any other provision of this code to the  
2 contrary, on and after the first day of July, one thousand  
3 nine hundred eighty-six, any public body may issue public  
4 obligations in registered or book entry form in addition to  
5 any form authorized by the specific provisions of this code  
6 pursuant to which the public obligations are issued.

**§13-2F-5. Powers of official registrar; designee.**

1 The official registrar shall (a) act as transfer agent or  
2 registrar for the exchange or transfer of registered public  
3 obligations or maintain the records so that public  
4 obligations in book-entry form may be effected, or (b)  
5 contract with or otherwise designate a bank, trust company  
6 or other person to act as transfer agent or registrar for the  
7 registered public obligations or maintain the records so that  
8 public obligations in book-entry form may be effected. The  
9 bank, trust company or other person may include the  
10 federal government or any of its agencies or  
11 instrumentalities and may be located or have its principal  
12 office within or without the state. Public obligations in  
13 book-entry form shall be effected by means of entries on the  
14 record of the official registrar or his designee which shall  
15 reflect the description of the issue, the principal amount,  
16 the interest rate, the maturity date and the owner of the  
17 public obligation and other information as is considered by  
18 the official registrar or his designee to be appropriate. The  
19 official registrar or his designee may effect conversion  
20 between book-entry public obligations and registered  
21 public obligations for owners of public obligations who  
22 request a change. The official registrar or his designee shall  
23 issue a confirmation of the transaction in the form of a  
24 written advice. The official registrar or his designee shall  
25 have such additional powers as are necessary to effectuate  
26 the purposes of this article.

**§13-2F-6. Confidentiality.**

1 Notwithstanding any other provision of this code to the  
2 contrary, the books of registry held by the official registrar  
3 or his designee shall be confidential, and the information  
4 contained therein shall not be available to the public.

**§13-2F-7. Application to public obligations approved by voters.**

1 The provisions of this article shall be effective with  
2 respect to public obligations which have prior to the first  
3 day of July, one thousand nine hundred eighty-six, been  
4 approved by the voters of the issuer of the public  
5 obligations at an election on the question of issuing public  
6 obligations in coupon and registered form, or in coupon  
7 form only, and the public obligations need not be  
8 resubmitted to the voters for the purpose of approving the  
9 issuance of the public obligations in registered form only.

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 13. SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND  
SANITARY DISTRICTS.**

**§16-13-1. Acquisition, operation, etc., of works; acquisition of  
property; issuance of bonds.**

1 Any municipal corporation and/or sanitary district in the  
2 state of West Virginia is hereby authorized and empowered  
3 to own, acquire, construct, equip, operate and maintain  
4 within and/or without the corporate limits of such  
5 municipal corporation, a sewage collection system and/or a  
6 sewage treatment plant or plants, intercepting sewers,  
7 outfall sewers, force mains, pumping stations, ejector  
8 stations, and all other appurtenances necessary or useful  
9 and convenient for the collection and/or treatment,  
10 purification and disposal, in a sanitary manner, of the  
11 liquid and solid waste, sewage, night soil and industrial  
12 waste of such municipal corporation and/or sanitary  
13 district, including acquisition of the municipal sewerage  
14 system resulting from the severance of a combined  
15 waterworks and sewerage system pursuant to section one-  
16 b, article twenty, chapter eight of this code, and shall have  
17 authority to acquire by gift, grant, purchase,  
18 condemnation, or otherwise, all necessary lands, rights-of-  
19 way and property therefor, within and/or without the  
20 corporate limits of such municipal corporation and/or  
21 sanitary district, and to issue revenue bonds to pay the cost  
22 of such works and property; and any such municipality may  
23 serve and supply the facilities of such sewerage system  
24 within the corporate limits of such municipality and within

25 the area extending twenty miles beyond the corporate  
 26 limits of such municipality: *Provided*, That such  
 27 municipality shall not serve or supply the facilities of such  
 28 sewerage system within the corporate limits of any other  
 29 municipality without the consent of the governing body  
 30 thereof. No obligations shall be incurred by any such  
 31 municipality and/or sanitary district in such construction  
 32 or acquisition except such as is payable solely from the  
 33 funds provided under the authority of this article.

**§16-13-15. Sinking fund; transfer of balance of net revenues.**

1 At or before the issuance of any such bonds the governing  
 2 body shall by said ordinance create a sinking fund, to be  
 3 remitted to and administered by the West Virginia  
 4 municipal bond commission, for the payment of the bonds  
 5 and the interest thereon and the payment of the charges of  
 6 banks or trust companies for making payment of such  
 7 bonds or interest, and shall set aside and pledge a sufficient  
 8 amount of the net revenues of the works, hereby defined to  
 9 mean the revenues of the works remaining after the  
 10 payment of the reasonable expense of operation, repair and  
 11 maintenance, such amount to be paid by the board into said  
 12 sinking fund at intervals to be determined by ordinance  
 13 prior to issuance of the bonds, for: (a) The interest upon  
 14 such bonds as such interest shall fall due; (b) the necessary  
 15 fiscal agency charges for paying bonds and interest; (c) the  
 16 payment of the bonds as they fall due, or, if all bonds mature  
 17 at one time, the proper maintenance of a sinking fund in  
 18 such amounts as are necessary and sufficient for the  
 19 payment thereof at such time; (d) a margin for safety and for  
 20 the payment of premiums upon bonds retired by call or  
 21 purchase as herein provided, which margin, together with  
 22 any unused surplus of such margin carried forward from  
 23 the preceding year, shall equal ten percent of all other  
 24 amounts so required to be paid into the sinking fund. Such  
 25 required payments shall constitute a first charge upon all  
 26 the net revenue of the works. Prior to the issuance of the  
 27 bonds the board may by ordinance be given the right to use  
 28 or direct the West Virginia municipal bond commission to  
 29 use such sinking fund or any part thereof in the purchase of  
 30 any of the outstanding bonds payable therefrom at the  
 31 market price thereof, but not exceeding the price, if any, at  
 32 which the same shall in the same year be payable or

33 redeemable, and all bonds redeemed or purchased shall  
34 forthwith be cancelled and shall not again be issued. After  
35 the payments into such fund as herein required, the board  
36 may at any time in its discretion transfer all or any part of  
37 the balance of the net revenues, after reserving an amount  
38 deemed by the board sufficient for operation, repair and  
39 maintenance for an ensuing period of not less than twelve  
40 months and for depreciation, into the sinking fund or into a  
41 fund for extensions, betterments and additions to the  
42 works. The amounts of the balance of the net revenue as and  
43 when so set apart shall be remitted to the West Virginia  
44 municipal bond commission to be retained and paid out by  
45 said commission consistent with the provisions of this  
46 article and with the ordinance pursuant to which such  
47 bonds have been issued. The West Virginia municipal bond  
48 commission is hereby authorized to act as fiscal agent for  
49 the administration of such sinking fund, under any  
50 ordinance passed pursuant to the provisions of this article,  
51 and shall invest all such sinking funds as provided by  
52 general law. Notwithstanding the foregoing, payments of  
53 principal and interest on any bonds owned by the United  
54 States of America or any agency or department thereof may  
55 be made by the governing body directly thereto.

**§16-13-22a. Grants, loans and advances.**

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  
4 in the manner, and subject to the privileges and limitations,  
5 set forth with respect to bonds authorized to be issued  
6 under the provisions of this article, for the purpose of  
7 paying part or all of the cost of acquisition or construction  
8 of said sewage works and the construction of betterments  
9 and improvements thereto, and for the other purposes  
10 herein authorized, from any authorized agency of the state  
11 or from the United States of America or any federal or  
12 public agency or department of the United States or any  
13 private agency, corporation or individual, which loans or  
14 temporary advances, including the interest thereon, may be  
15 repaid out of the proceeds of bonds authorized to be issued  
16 under the provisions of this article, the revenues of the said  
17 sewage works or grants to the municipality from any agency

18 of the state or from the United States of America or any  
19 federal or public agency or department of the United States  
20 or any private agency, corporation or individual or from  
21 any combination of such sources of payment, and to enter  
22 into the necessary contracts and agreements to carry out the  
23 purposes hereof with any agency of the state, the United  
24 States of America or any federal or public agency or  
25 department of the United States, or with any private  
26 agency, corporation or individual. Any other provisions of  
27 this article to the contrary notwithstanding, interest on any  
28 such loans or temporary advances may be paid from the  
29 proceeds thereof until the maturity of such notes or other  
30 negotiable instrument.

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

**ARTICLE 13A. PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE  
AND GAS SERVICES.**

**§16-13A-24. Acceptance of loans, grants or temporary  
advances.**

1 Any public service district created pursuant to the  
2 provisions of this article is authorized and empowered to  
3 accept loans or grants and procure loans or temporary  
4 advances evidenced by notes or other negotiable  
5 instruments issued in the manner, and subject to the  
6 privileges and limitations, set forth with respect to bonds  
7 authorized to be issued under the provisions of this article,  
8 for the purpose of paying part or all of the cost of  
9 construction or acquisition of water systems, sewage  
10 systems or gas facilities, or all of these, and the other  
11 purposes herein authorized, from any authorized agency or  
12 from the United States of America or any federal or public  
13 agency or department of the United States or any private  
14 agency, corporation or individual, which loans or  
15 temporary advances, including the interest thereon, may be  
16 repaid out of the proceeds of the bonds authorized to be  
17 issued under the provisions of this article, the revenues of  
18 the said water system, sewage system or gas facilities or  
19 grants to the public service district from any authorized

20 agency or from the United States of America or any federal  
21 or public agency or department of the United States or from  
22 any private agency, corporation or individual or from any  
23 combination of such sources of payment, and to enter into  
24 the necessary contracts and agreements to carry out the  
25 purposes hereof with any authorized agency or the United  
26 States of America or any federal or public agency or  
27 department of the United States, or with any private  
28 agency, corporation or individual. Any other provisions of  
29 this article to the contrary notwithstanding, interest on any  
30 such loans or temporary advances may be paid from the  
31 proceeds thereof until the maturity of such notes or other  
32 negotiable instrument.

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

*Bruce O. Williams*  
.....  
Chairman Senate Committee

*Floyd Fuller*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Judith C. Sticks*  
.....  
Clerk of the Senate

*Donald J. Kopp*  
.....  
Clerk of the House of Delegates

*Sam Tomblin*  
.....  
President of the Senate

*Joseph P. Allright*  
.....  
Speaker House of Delegates

The within *approved* ..... this the *26th*  
*March* day of ..... 1986.

*Anna Shoop*  
.....  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/24/86

Time 4:29 p.m.

RECEIVED

1986 MAR 26 AM 11:04

SECRETARY OF STATE

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 3/26/86