WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

Com. Sub. for
HOUSE BILL No. 4084

(By Delegate Harkey & R. Burke)

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Passed March 10, 1990

In Effect from Passage
AN ACT to amend article nineteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the acquisition, construction and operation of municipal and county waterworks and electric power systems; defining terms; extension of corporate and county limits; notice provisions; right of eminent domain when acquiring, constructing, establishing or extending waterworks or electric power systems; providing for revenue bond financing for such projects; issuance of revenue bonds; providing for exemption from taxation of all such bonds and interest earned thereon; providing for exemption from taxation of municipally-owned waterworks systems and electric power systems; publication of abstract of ordinance or order; terms of bonds; bonds do not constitute indebtedness of municipality or county commission; lien of bondholders; covenants with bondholders; operating contract; rates or charges for water or electric power and disposition of surplus; service charges; authorizing municipality or county commission to determine amount of bonds; liens for delinquent service rates and charges; discontinuance of water or electric power service for nonpayment; bonds for additions, betterments and improvements; system of accounts; rights of bond-
holders; permitting acceptance of grants, loans, advances and agreements; alternative method for constructing or improving and for financing waterworks or electric power systems; alternatives procedure for acquisition, construction or improvement of waterworks or electric power system; and liberal construction.

Be it enacted by the Legislature of West Virginia:

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

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

PART I. MUNICIPAL AND COUNTY WATERWORKS AND ELECTRIC POWER SYSTEMS AUTHORIZED; DEFINITION.

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

(a) Subject to and in accordance with the provisions of this article, any municipality or county commission may acquire, construct, establish, extend, equip, repair, maintain and operate or lease to others for operation, a waterworks system or an electric power system or construct, maintain and operate additions, betterments and improvements to an existing waterworks system or an existing electric power system, notwithstanding any provision or limitation to the contrary in any other law or charter: Provided, That such municipality or county commission shall not serve or supply water facilities or electric power facilities or services within the corporate limits of any other municipality or county commission without the consent of the governing body of such other municipality or county commission.

(b) Any municipality or county commission which intends to file an application with the federal energy regulatory commission for a license to acquire, construct, establish, extend, maintain and operate, or lease to other for operation, an electric power system, shall
give written notice by certified mail, return receipt requested and shall give public notice by Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area shall be the municipality or county in which the system is to be located to the governing body of the municipality or the county commission in which such system is or shall be located or, if such system is or shall be located outside of a municipality or county, to the county commission of the county in which such system is or shall be located, at least sixty days prior to the filing of such application: Provided, That the provisions of this subsection shall not apply to any municipality or county commission which, on the date of the passage of this act, has obtained a license from the federal energy regulatory commission to acquire, construct, establish, extend, maintain and operate, or lease to others for operation, an electric power system. If the municipality or county commission receiving such notice does not respond to the notice within sixty days of receipt of such notice, then such other municipality or the county commission shall be deemed to have consented to the application for the proposed electric power system. If such other municipality or the county commission notifies the municipality or county commission that it objects to the proposed electric power system, such other municipality or the county commission shall hold a public hearing on the proposed system within sixty days of receipt of such notice from the municipality or county commission.

(c) As used in this article:

(1) “Waterworks system” means a waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system.

(2) “Electric power system” means a system or facility which produces electric power in its entirety or provides
for the distribution of electric power for local consumption and use or for distribution and resale or any combination thereof, or any integral part thereof, including, but not limited to, power lines and wires, power poles, guy wires, insulators, transformers, generators, cables, power line towers, voltage regulators, meters, power substations, machinery and all other facilities necessary, appropriate, useful or convenient or incidental in connection with or to an electric power supply system.

PART III. RIGHT OF EMINENT DOMAIN.

§8-19-3. Right of eminent domain; limitations.

For the purpose of acquiring, constructing, establishing or extending any waterworks system or electric power system, or for the purpose of constructing any additions, betterments or improvements to any waterworks or electric power system, or for the purpose of acquiring any property necessary, appropriate, useful, convenient or incidental for or to any waterworks or electric power system, under the provisions of this article, the municipality or county commission shall have the right of eminent domain as provided in chapter fifty-four of this code: Provided, That such right of eminent domain for the acquisition of a privately owned waterworks system, or electric power system, or any part thereof, shall not be exercised without prior approval of the public service commission, and in no event shall any municipality or county commission construct, establish or extend beyond the corporate limits of said municipality or county line a municipal or county waterworks or electric power system under the provisions of this article to supply service in competition with an existing privately or municipally or county owned waterworks or electric power system in such municipality or county or within the proposed extension of such system, unless a certificate of public convenience and necessity therefor shall have been issued by the public service commission. Provided, however, That a municipality or county commission may not exercise such right of eminent domain over a privately owned electric power system or any part
thereof for the purpose of acquiring, constructing, establishing or extending an electric power system.

Subject to the provisions of this article and notwithstanding the provisions of section nineteen, article twelve of this chapter to the contrary, a municipality or county commission may acquire, construct, establish, extend, equip, repair, maintain and operate, or lease to others for operation, electric generators or electric generating systems or electric transmission systems more than one mile beyond the corporate limits of such municipality or county line and said electric generation systems shall not be under the jurisdiction of the public service commission.

PART IV. REVENUE BOND FINANCING.

§8-19-4. Estimate of cost; ordinance or order for issuance of revenue bonds; interest on bonds; rates for services; exemption from taxation.

Whenever a municipality or county commission shall, under the provisions of this article, determine to acquire, by purchase or otherwise, construct, establish, extend or equip a waterworks system on an electric power system, or to construct any additions, betterments or improvements to any waterworks or electric power system, it shall cause an estimate to be made of the cost thereof, and may, by ordinance or order, provide for the issuance of revenue bonds under the provisions of this article, which ordinance or order shall set forth a brief description of the contemplated undertaking, the estimated cost thereof, the amount, rate or rates of interest, the time and place of payment, and other details in connection with the issuance of the bonds. Such bonds shall be in such form and shall be negotiated and sold in such manner and upon such terms as the governing body of such municipality or county commission may by ordinance or order specify. All such bonds and the interest thereon, shall be exempt from all taxation by this state, or any county, municipality or county commission, political subdivision or agency thereof. Notwithstanding any other provision of this code to the contrary, the real and personal property
which a municipality or county has acquired and
constructed according to the provisions of this article,
and any leasehold interest therein held by other persons,
shall be deemed public property and shall be exempt
from taxation by the state, or any county, municipality
or other levying body, so long as the same is owned by
such municipality or county. Such bonds shall bear
interest at a rate per annum set by the municipality or
county commission, payable at such times, and shall be
payable as to principal at such times, not exceeding fifty
years from their date, and at such place or places,
within or without the state, as shall be prescribed in the
ordinance or order providing for their issuance. Unless
the governing body of the municipality or county
commission shall otherwise determine, such ordinance
or order shall also declare that a statutory mortgage lien
shall exist upon the property so to be acquired,
constructed, established, extended or equipped, fix
minimum rates or charges for water or electricity to be
collected prior to the payment of all of said bonds and
shall pledge the revenues derived from the waterworks
or electric power system for the purpose of paying such
bonds and interest thereon, which pledge shall definitely
fix and determine the amount of revenues which shall
be necessary to be set apart and applied to the payment
of the principal of and interest upon the bonds and the
proportion of the balance of such revenues, which are
to be set aside as a proper and adequate depreciation
account, and the remainder shall be set aside for the
reasonable and proper maintenance and operation
thereof. The rates or charges to be charged for the
services from such waterworks or electric power system
shall be sufficient at all times to provide for the payment
of interest upon all bonds and to create a sinking fund
to pay the principal thereof as and when the same
become due, and reasonable reserves therefor, and to
provide for the repair, maintenance and operation of the
waterworks or electric power system, and to provide an
adequate depreciation fund, and to make any other
payments which shall be required or provided for in the
ordinance or order authorizing the issuance of said
bonds.
§8-19-5. Publication of abstract of ordinance or order and notice; hearing.

After the ordinance or order for any project under this article has been adopted, an abstract of the ordinance or order, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance or order, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality or county. The notice to be published with said abstract of the ordinance or order shall state that said ordinance or order has been adopted, that the municipality or county commission contemplates the issuance of the bonds described in the ordinance or order, that any person interested may appear before the governing body, upon a certain date, which shall be not less than ten days subsequent to the date of the first publication of such abstract and notice and which shall not be prior to the date of the last publication by such abstract and notice, and present protests, and that a certified copy of the ordinance or order is on file with the governing body for review by interested parties during the office hours of the governing body. At such hearing all protests and suggestions shall be heard and the governing body shall take such action as it considers proper in the premises: Provided, That if at such hearing written protest is filed by thirty percent or more of the freeholders of the municipality or county, then the governing body of said municipality or county shall not take further action unless four fifths of the qualified members of said governing body assent thereto.

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

Bonds herein provided for shall be issued in such amounts as may be necessary to provide sufficient funds to pay all costs of acquisition, construction, establishment, extension or equipment, including engineering, legal and other expenses, together with interest to a date six months subsequent to the estimated date of comple-
tion. Bonds issued under the provisions of this article are hereby declared to be negotiable instruments, and the same shall be executed by the proper legally constituted authorities of the municipality or county commission, and be sealed with the corporate seal of the municipality or certified by the county commission, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. All signatures on the bonds or coupons and the corporate seal may be mechanically reproduced if authorized in the ordinance or order authorizing the issuance of the bonds.

§8-19-7. Bonds payable solely from revenues; not to constitute municipal or county indebtedness.

Bonds issued under the provisions of this article shall be payable solely from the revenues derived from such waterworks or electric power system, and such bonds shall not in any event constitute an indebtedness of such municipality or county within the meaning of any constitutional or statutory provision or limitation, and it shall be plainly stated on the face of each bond that the same has been issued under the provisions of this article, and that it does not constitute an indebtedness of such municipality or county within constitutional or statutory provision or limitation. Subject to the provisions of subsection (b), section twelve of this article, the ordinance or order authorizing the issuance of the bonds may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be considered necessary or advisable for the assurance of payment of the bonds thereby authorized and as may thereafter be issued.

§8-19-8. Lien of bondholders; deeds of trust; security agreements; priority of liens.

Unless the governing body shall otherwise determine in the ordinance or order authorizing the issuance of bonds under this article, there shall be and there is
hereby created and granted a statutory mortgage lien
upon the waterworks or electric power system so
acquired, constructed, established, equipped, extended
or improved from the proceeds of bonds hereby autho-
rized to be issued, which shall exist in favor of the
holder of said bonds and each of them, and to and in
favor of the holder of the coupons attached to said bonds,
and such waterworks or electric power system shall
remain subject to such statutory mortgage lien until
payment in full of the principal of and interest upon said
bonds.

Any municipality or county commission in acquiring
an existing waterworks system or in improving an
existing waterworks or electric power system may
provide that financing therefor may be made by issuing
revenue bonds and delivering the same at such prices
as may be agreed upon within the limitations prescribed
in section six of this article. Any revenue bonds so issued
to provide financing for such existing waterworks or
electric power system or for any improvements to an
existing waterworks or electric power system may be
secured by a mortgage or deed of trust upon and
security interest in the property so acquired or im-
proved or any other interest of the municipality or
county commission in property related thereto as
determined by the municipality or county commission in
the ordinance or order authorizing the issuance of such
revenue bonds; and in such event the holders thereof
shall have, in addition to any other remedies and rights
prescribed by this article, such remedies and rights as
may now or hereafter exist in law in the case of
mortgages or deeds of trust on real property and
security interests in personal property. Such mortgage
or deed of trust, upon its recordation, shall have priority
over all other liens or encumbrances, however created
or arising, on the property covered by such mortgage
or deed of trust, to the same extent and for the same
amount as if the municipality or county were obligated
to pay the full amount secured by such mortgage or deed
of trust immediately upon the recordation of such
mortgage or deed of trust and remained so obligated
until the obligations secured are fully discharged.

Any ordinance or order authorizing the issuance of bonds, hereunder, or any trust indenture with any banking institution or trust company within or without the state for the security of said bonds, which any such municipality or county commission is hereby empowered and authorized to enter into and execute, may contain covenants with the holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of sale of such bonds or the revenues derived from said waterworks or electric power system may be applied and the securing, use and disposition thereof, including, if deemed desirable, the appointment of a trustee or depository for any of such funds;

(b) The pledging of all or any part of the revenues derived from the ownership, control or operation of such waterworks or electric power system, including any part thereof heretofore or hereafter acquired, constructed, established, extended or equipped or derived from any other sources, to the payment of the principal of or interest thereon of bonds issued hereunder and for such reserve or other funds as may be considered necessary or desirable;

(c) The fixing, establishing and collecting of such rates or charges for the use of the services and facilities of the waterworks or electric power system, including the parts thereof heretofore or hereafter acquired, constructed, established, extended or equipped and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of repair, maintenance and operation of such waterworks or electric power system, the payment of the principal of and interest upon all bonds or other obligations payable from the revenues of such waterworks or electric power system, and all reserve and other funds required by the terms of the ordinance or order authorizing the issuance of such bonds;

(d) The transfer from the general funds of the municipality or county commission to the account or accounts of the waterworks or electric power system of
an amount equal to the cost of furnishing the munici-

pality or county commission or any of its departments,

boards or agencies or the county commission with the

services and facilities of such waterworks or electric

power system;

(e) Subject to the provisions of subsection (b), section
twelve of this article, limitations or restrictions upon the
issuance of additional bonds or other obligations payable
from the revenues of such waterworks or electric power
system, and the rank or priority, as to lien and source
and security for payment from the revenues of such
waterworks or electric power system, between bonds
payable from such revenues;

(f) The manner and terms upon which all bonds and
other obligations issued hereunder may be declared
immediately due and payable upon the happening of a
default in the payment of the principal of or interest
thereon, or in the performance of any covenant or
agreement with bondholders, and the manner and terms
upon which such defaults may be declared cured and the
acceleration of the maturity of such bonds rescinded and
repealed;

(g) Budgets for the annual repair, maintenance and
operation of such waterworks or electric power system
and restrictions and limitations upon expenditures for
such purposes, and the manner of adoption, modific-
ation, repeal or amendment thereof, including the
approval of such budgets by consulting engineers
designated by holders of bonds issued hereunder;

(h) The amounts of insurance to be maintained upon
such waterworks or electric power system, or any part
thereof, and the use and disposition of the proceeds of
any insurance; and

(i) The keeping of books of account, relating to such
undertakings and the audit and inspection thereof, and
the furnishing to the holders of bonds issued hereunder
or their representatives, reports prepared, certified or
approved by accountants designated or approved by the
holders of bonds issued hereunder.
Any such ordinance, order or trust indenture may also contain such other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that such other covenants are not expressly enumerated above, it being the intention hereof to grant to municipalities or county commissions plenary power and authority to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant to municipalities and counties full and complete power and authority to enter into any contracts, covenants or agreements with holders of bonds issued hereunder not inconsistent with the constitution of this state.

§8-19-10. Operating contract.

Any such municipality or county commission may enter into contracts or agreements with any persons for (1) the repair, maintenance and operation and management of the facilities and properties of said waterworks or electric power system, or any part thereof, or (2) the collection and disbursement of the income and revenues therefor, or for both (1) and (2), for such period of time and under such terms and conditions as shall be agreed upon between such municipality or county commission and such persons. Any such municipality or county commission shall have plenary power and authority to provide in the ordinance or order authorizing the issuance of bonds hereunder, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality and county commission as long as any of said bonds, or interest thereon, is outstanding and unpaid.

§8-19-11. Rates or charges for water and electric power must be sufficient to pay bonds, etc.; disposition of surplus.

Rates or charges for water or electric power fixed precedent to the issuance of bonds shall not be reduced
until all of said bonds shall have been fully paid, and may, whenever necessary, be increased in amounts sufficient to provide for the payment of the principal of and interest upon such bonds, and to provide proper funds for the depreciation account and repair, maintenance and operation charges. If any surplus shall be accumulated in the repair, maintenance and operation fund which shall be in excess of the cost of repairing, maintaining and operating the waterworks or electric power system during the remainder of the fiscal year then current, and the cost of repairing, maintaining and operating the said waterworks or electric power system during the fiscal year then next ensuing, then any such excess may be transferred to either the depreciation account or to the bond and interest redemption account, and if any surplus shall be accumulated in the depreciation account over and above that which the municipality or county commission shall find may be necessary for the probable replacements which may be needed during the then present fiscal year, and the next ensuing fiscal year, such excess may be transferred to the bond and interest redemption account, and if any surplus shall exist in the bond and interest redemption account the same shall be applied insofar as possible in the purchase or retirement of outstanding revenue bonds payable from such account.

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

(a) Every municipality or county commission issuing bonds under the provisions of this article shall thereafter, so long as any of such bonds remain outstanding, repair, maintain and operate its waterworks or electric power system as hereinafter provided and shall charge, collect and account for revenues therefrom as will be sufficient to pay all repair, maintenance and operation costs, provide a depreciation fund, retire the bonds and pay the interest requirements of the bonds as the same become due. The ordinance or order pursuant to which any such bonds are issued shall pledge the revenues derived from the waterworks or electric power system to the purposes aforesaid and shall definitely fix and
determine the amount of revenues which shall be necessary and set apart in a special fund for the bond requirements. The amounts as and when so set apart into said special fund for the bond requirements shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and the ordinance or order pursuant to which such bonds have been issued: Provided, That payment of principal of and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the municipality or county commission directly to the United States of America or said agency or department thereof. The bonds hereby authorized shall be issued in such amounts as may be determined necessary to provide funds for the purpose for which they are authorized, and in determining the amount of bonds to be issued it shall be proper to include interest on the bonds for a period not beyond six months from the estimated date of completion.

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

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

§8-19-12a. Lien for delinquent service rates and charges; notice of delinquency; failure to cure delinquency; civil actions; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.

(a) Whenever any rates and charges for water services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of
the services and facilities provided shall be delinquent and the owner, user and property shall be held liable at law until such time as all such rates and charges are fully paid: Provided, That in the event the user is a tenant, the property owner shall be given notice of any said delinquency by certified mail, return receipt requested, and the user shall be given such notice by first-class mail: Provided, however, That failure of the user to cure the delinquency within a thirty-day period after receipt of such notice shall constitute grounds to terminate the user's lease of the premises concerned.

(b) All rates or charges for water service whenever delinquent, as provided by ordinance of the municipality or order of the county commission, shall be liens of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes for the amount thereof upon the real property served, and the municipality or county commission shall have plenary power and authority from time to time to enforce such lien in a civil action to recover the money due for such services rendered plus court fees and costs and a reasonable attorney's fee: Provided, That a municipality or county commission shall have exhausted all remedies available against such delinquent users before it may proceed in a civil action against the owner.

(c) Municipalities and county commissions are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of the delinquent rates and charges. If the municipality or county commission collects the delinquent account, plus fees and costs, from its customer or other responsible party, the municipality or county commission shall pay to the magistrate court the filing fees or other fees and costs which were previously deferred.

(d) No municipality or county commission may foreclose upon the premises served by it for delinquent rates or charges for which a lien is authorized by this section except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county or the county wherein the munici-
pality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality or county commission had exhausted all other remedies for the collection of debts with respect to such delinquencies prior to the bringing of such action. In no event shall foreclosure procedures be instituted by any municipality or county commission or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought.

§8-19-13. Discontinuance of water or electric power service for nonpayment of rates or charges.

Any such municipality or county commission shall also have plenary power and authority, and may covenant with the holders of any bonds issued hereunder, to shut off and discontinue the supplying of the water or electric power service of said waterworks or electric power system for the nonpayment of the rates or charges for said water or electric power service.


Whenever any municipality or county commission shall now or hereafter own and operate a waterworks or electric power system, whether acquired, constructed, established, extended or equipped under the provisions of this article or not, and shall desire to construct additions, betterments or improvements thereto, it may issue revenue bonds under the provisions of this article to pay for the same, and the procedure therefor, including the fixing of rates or charges and the computation of the amount thereof, and the power and authority in connection therewith, shall be the same as in this article provided for the issuance of bonds for the acquisition, construction, establishment, extension or equipment of a waterworks system or electric power system in a municipality or county which has not heretofore owned and operated a waterworks or electric power system: Provided, That nothing in this article shall be construed as authorizing any municipality or
county commission to impair or commit a breach of the
obligation of any valid lien or contract created or
entered into by it, the intention being to authorize the
pledging, setting aside and segregation of such revenues
for the construction of such additions, betterments or
improvements only where and to the extent consistent
with outstanding obligations of such municipality or
county commission, and in accordance with the provi-
sons of this article.


Any municipality or county commission operating a
waterworks or electric power system under the provi-
sions of this article shall set up and maintain a proper
system of accounts in accordance with the requirements
of the public service commission, showing the amount
of revenues received from such waterworks or electric
power system and the application of the same. At least
once each year such municipality or county commission
shall cause such accounts to be properly audited, and a
report of such audit shall be open to the public for
inspection at all reasonable times.

§8-19-16. Protection and enforcement of rights of bond-
holders, etc.; receivership.

Any holder of any bonds issued under the provisions
of this article or of any coupons representing interest
accrued thereon may by civil action, mandamus or other
proper proceeding enforce the statutory mortgage lien
created and granted in section eight of this article,
protect and enforce any and all rights granted here-
under or under any such ordinance, order or trust
indenture, and may enforce and compel performance of
all duties required by the provisions of this article or
by any such ordinance, order or trust indenture to be
performed by the municipality or county commission, or
by the governing body or any officer, including the
making and collecting of reasonable and sufficient rates
or charges for services rendered by the waterworks or
electric power system. If there be default in the payment
of the principal of or interest upon any of such bonds,
or of both principal and interest, any court having
jurisdiction shall appoint a receiver to administer said
waterworks or electric power system on behalf of the
municipality or county commission, and the bondholders
or trustee, or both, with power to charge and collect
rates or charges sufficient to provide for the retirement
of the bonds and pay the interest thereon, and for the
payment of the repair, maintenance and operation
expenses, and such receiver shall apply the revenues in
conformity with the provisions of this article and the
ordinance or order pursuant to which such bonds have
been issued or any trust indenture, or both.

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


As an alternative to, or in conjunction with, the
issuance of revenue bonds authorized by this article, any
municipality or county commission is hereby empow-
ered and authorized to accept loans or grants and
procure loans or temporary advances evidenced by notes
or other negotiable instruments issued in the manner,
and subject to the privileges and limitations, set forth
with respect to bonds authorized to be issued under the
provisions of this article, or otherwise enter into
agreement, including, but not limited to, agreements of
indemnity, assurance or guarantee with respect to, and
for the purpose of financing part or all of, the cost of
acquisition, construction, establishment, extension or
equipment of waterworks or electric power systems and
the construction of additions, betterments and improve-
ments to existing waterworks systems or to existing
electric power systems, and for the other purposes
herein authorized, from or with any authorized agency
of the state or from the United States of America or any
federal or public agency or department of the United
States or any private agency, corporation or individual,
which loans or temporary advances, including the
interest thereon, or the municipality’s or county’s
financial obligations contained in such other agree-
ments, which need not bear interest, may be repaid out
of the proceeds of bonds authorized to be issued under
the provisions of this article, the revenues of or proceeds
from the said waterworks system or electric power
system or grants to the municipality or county commis-
sion from any agency of the state or from the United
States of America 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, and may be secured in the
manner provided in sections eight, nine and sixteen of
this article to secure bonds issued under the provisions
of this article, but shall not otherwise be subject to the
requirements of sections eleven and twelve of this
article, and to enter into the necessary contracts and
agreements to carry out the purposes hereof with any
agency of the state, the United States of America or any
federal or public agency or department of the United
States, or with any private agency, corporation or
individual.

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

§8-19-18. Additional and alternative method for con­
structing or improving and for financing
waterworks or electric power system; cu­
mulative authority.

This article shall, without reference to any other
statute or charter provision, be deemed full authority for
the acquisition, construction, establishment, extension,
equipment, additions, betterment, improvement, repair,
maintenance and operation of or to a waterworks or
electric power system or for the construction of any
additions, betterments, improvements, repairs, mainte-
nance or operation of or to an existing electric power
system as herein provided and for the issuance and sale
of the bonds or the alternative methods of financing by
this article authorized, and shall be construed as an
additional and alternative method therefor and for the
financing thereof, and no petition, referendum or
election or other or further proceeding with respect to
any such undertaking or to the issuance or sale of bonds
or the alternative methods of financing under the provisions of this article and no publication of any resolution, ordinance, order, notice or proceeding relating to any such undertaking or to the issuance or sale of such bonds or the alternative methods of financing shall be required, except as prescribed by this article, any provisions of other statutes of the state to the contrary notwithstanding: Provided, That all functions, powers and duties of the state division of health shall remain unaffected by this article.

This article shall be construed as cumulative authority for any undertaking herein authorized, and shall not be construed to repeal any existing laws with respect thereto.

PART VI. OPERATION BY BOARD; CONSTRUCTION.

§8-19-19. Alternative procedure for acquisition, construction or improvement of waterworks or electric power system.

As an alternative to the procedures hereinabove provided, any municipality or county commission is hereby empowered and authorized to acquire, construct, establish, extend, equip, repair, maintain and operate a waterworks or an electric power system or to construct, maintain and operate additions, betterments and improvements to an existing waterworks system or an existing electric power system, whether acquired, constructed, established, extended or equipped under the provisions of this article or not, and to collect the revenues therefrom for the services rendered thereby, through the supervision and control of a committee, by whatever name called, composed of all or a portion of the governing body, or of a board or commission appointed by such governing body, as may be provided by the governing body, and if such alternative is followed, said committee, board or commission shall have and be limited to all the powers, authority and duties granted to and imposed upon a board as provided in article sixteen of this chapter.

§8-19-20. Article to be liberally construed.
This article is necessary for the public health, safety and welfare and shall be liberally construed to effectuate its purposes.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederic L. Perri
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 22nd day of March, 1990.

Governor