

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



# ENROLLED

*Com. Sub. For*  
HOUSE BILL No. *2916*

(By Delegate *Pettit* )



Passed *March 7,* 1992

In Effect *July 1, 1992* ~~Passage~~



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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2916**  
(By DELEGATE PETTIT)

[Passed March 7, 1992; in effect July 1, 1992.]

AN ACT to amend and reenact section four, article nineteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to revenue bond financing for municipal and county waterworks and electric power systems; providing that electric power systems are exempt from certain taxation under specified circumstances; and providing that any payments in lieu of tax be distributed in a specified manner.

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

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

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

**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.**

1       Whenever a municipality or county commission shall,  
2       under the provisions of this article, determine to

3 acquire, by purchase or otherwise, construct, establish,  
4 extend or equip a waterworks system or an electric  
5 power system, or to construct any additions, betterments  
6 or improvements to any waterworks or electric power  
7 system, it shall cause an estimate to be made of the cost  
8 thereof, and may, by ordinance or order, provide for the  
9 issuance of revenue bonds under the provisions of this  
10 article, which ordinance or order shall set forth a brief  
11 description of the contemplated undertaking, the  
12 estimated cost thereof, the amount, rate or rates of  
13 interest, the time and place of payment, and other  
14 details in connection with the issuance of the bonds.  
15 Such bonds shall be in such form and shall be negotiated  
16 and sold in such manner and upon such terms as the  
17 governing body of such municipality or county commis-  
18 sion may by ordinance or order specify. All such bonds  
19 and the interest thereon shall be exempt from all  
20 taxation by this state, or any county, municipality or  
21 county commission, political subdivision or agency  
22 thereof. Notwithstanding any other provision of this  
23 code to the contrary, the real and personal property  
24 which a municipality or county has acquired and  
25 constructed according to the provisions of this article,  
26 and any leasehold interest therein held by other persons,  
27 shall be deemed public property and shall be exempt  
28 from taxation by the state, or any county, municipality  
29 or other levying body, so long as the same is owned by  
30 such municipality or county: *Provided*, That with  
31 respect to electric power systems, this exemption for  
32 real and personal property shall be applicable only for  
33 such real and personal property (1) physically situate  
34 within the municipal or county boundaries of the  
35 municipality or county which acquired or constructed  
36 such electric power system and there was in place prior  
37 to the effective date of the amendments to this section  
38 made in the year one thousand nine hundred ninety-two  
39 an agreement between the municipality, and the county  
40 commission for payments in lieu of tax, or (2) acquired  
41 or constructed with the written agreement of the county  
42 school board, county commission and any municipal  
43 authority within whose jurisdiction the electric power  
44 system is or is to be physically situate. Notwithstanding

45 anything contained in this statute to the contrary, this  
46 exemption shall be applicable to any leasehold or similar  
47 interest held by persons other than a municipality or  
48 county only if acquired or constructed with the written  
49 agreement of the county school board, county commis-  
50 sion and any municipal authority within whose jurisdic-  
51 tion the electric power system is or is to be physically  
52 situate: *Provided, however,* That payments made to any  
53 county commission, county school board or municipality  
54 in lieu of tax pursuant to such an agreement shall be  
55 distributed as if the payments resulted from ad valorem  
56 property taxation. Such bonds shall bear interest at a  
57 rate per annum set by the municipality or county  
58 commission, payable at such times, and shall be payable  
59 as to principal at such times, not exceeding fifty years  
60 from their date, and at such place or places, within or  
61 without the state, as shall be prescribed in the ordinance  
62 or order providing for their issuance. Unless the  
63 governing body of the municipality or county commis-  
64 sion shall otherwise determine, such ordinance or order  
65 shall also declare that a statutory mortgage lien shall  
66 exist upon the property so to be acquired, constructed,  
67 established, extended or equipped, fix minimum rates  
68 or charges for water or electricity to be collected prior  
69 to the payment of all of said bonds and shall pledge the  
70 revenues derived from the waterworks or electric power  
71 system for the purpose of paying such bonds and interest  
72 thereon, which pledge shall definitely fix and determine  
73 the amount of revenues which shall be necessary to be  
74 set apart and applied to the payment of the principal  
75 of and interest upon the bonds and the proportion of the  
76 balance of such revenues, which are to be set aside as  
77 a proper and adequate depreciation account, and the  
78 remainder shall be set aside for the reasonable and  
79 proper maintenance and operation thereof. The rates or  
80 charges to be charged for the services from such  
81 waterworks or electric power system shall be sufficient  
82 at all times to provide for the payment of interest upon  
83 all bonds and to create a sinking fund to pay the  
84 principal thereof as and when the same become due, and  
85 reasonable reserves therefor, and to provide for the  
86 repair, maintenance and operation of the waterworks or

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87 electric power system, and to provide an adequate  
88 depreciation fund, and to make any other payments  
89 which shall be required or provided for in the ordinance  
90 or order authorizing the issuance of said bonds.

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

*Somer Deck*

Chairman Senate Committee

*Ernest C. Moore*

Chairman House Committee

Originating in the House.

Takes effect July 1, 1992.

*Harrell Robinson*  
Clerk of the Senate

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

*Scott Brundage*  
President of the Senate

*Robert Cole*  
Speaker of the House of Delegates

The within *is approved* this the *1st*  
day of *April* 1992.

*Yaston Caperton*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/25/92

Time 11:50 am  
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