WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

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ENROLLED

Com. Sub. on

HOUSE BILL No. 4399

(By Delegate Preston and Browning)

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Passed March 12, 1994

In Effect 90 Days From Passage
AN ACT to amend and reenact section fourteen, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section fifteen-a; to amend and reenact sections two and four, article two of said chapter; and to amend and reenact section seven-a, article three of said chapter, all relating to general obligation bonds, the terms and provisions of such bonds, the redemption prior to maturity of such bonds, the refunding of such bonds, the terms and provisions of such refunding bonds, the redemption prior to maturity of such refunding bonds and the escrowing of funds for bond issues, including any redemption premium therefor.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section fifteen-a; that sections two and four, article two of said chapter be amended and reenacted; and that section seven-a, article three of said chapter be amended and reenacted, all to read as follows:
ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.


If three fifths of all the votes cast for and against the proposition to incur debt and issue negotiable bonds shall be in favor of the same, the governing body of the political division shall, by resolution, authorize the issuance of such bonds in an amount not exceeding the amount stated in the proposition; fix the date thereof; set forth the denominations in which they shall be issued, which denominations shall be one hundred dollars or multiples thereof; determine the rate or rates of interest which the bonds shall bear, which rate or rates of interest shall be within the maximum rate stated in the proposition submitted to vote and payable semiannually; prescribe the medium with which the bonds shall be payable; require that the bonds shall be made payable at the office of the state board of investments and at such other place or places as the body issuing the same may designate; provide for a sufficient levy to pay the annual interest on the bonds and the principal at maturity; fix the times within the maximum period, as contained in the proposition submitted to vote, when the bonds shall become payable, which shall not exceed thirty-four years from the date thereof; determine whether all or a portion of the bonds shall be subject to redemption prior to the maturity thereof and, if so, the terms of the redemption; and prescribe a form for executing the bonds authorized.

§13-1-15a. Bonds may be subject to redemption.

All or a portion of such bonds may be subject to redemption prior to the maturity thereof, at the option of the body issuing the same, at such times and prices and on such terms as shall be designated in the resolution required by section fourteen of this article. The body issuing the bonds may not levy taxes in connection with the redemption of any bonds in excess of the taxes that would have been levied for the payment of principal of and interest on such bonds in such year.

ARTICLE 2. REFUNDING BONDS.
§13-2-2. Terms of refunding bonds; time, place and amount of payments.

1. Upon determining to issue such refunding bonds, the governing body of such political division shall, by resolution, authorize the issuance of such bonds in an amount not exceeding the principal amount permitted by section one of this article, fix the date thereof, the rate or rates of interest which such bonds shall bear, payable semiannually, and require that the bonds shall bear, payable at the office of the state board of investments and at such other place or places as the body issuing the same may designate. Such resolution shall also provide that such bonds shall mature serially in annual installments beginning not more than three years after the date thereof, and the last of such annual installments shall mature in not exceeding thirty-four years from the date of such bonds. The amount payable in each year on the refunding bonds, together with any unfunded or unissued bonds of the prior issue, may be so fixed that, when the amount of interest is added to the principal amount to be paid during the respective years, the total amount payable in each year shall be as nearly equal as practicable; or such bonds may be made payable in annual installments as nearly equal in principal as may be practicable.

2. All or a portion of the refunding bonds may be subject to redemption prior to the maturity thereof, at the option of the body issuing the same, at such times and prices and on such terms as shall be designated in the resolution required by this section. The body issuing the refunding bonds may not levy taxes in connection with the redemption of any refunding bonds in excess of the taxes that would have been levied for the payment of principal of and interest on such refunding bonds in such year.

§13-2-4. Disposition of bonds; cancellation of original bonds.

1. The governing body of the political body of the political subdivision issuing bonds under this article may sell the same or any part thereof and collect the
proceeds, or such bonds may be delivered to the holder or holders of the bonds to be refunded in exchange therefor.

It is the intention of this article to authorize political divisions to issue bonds for the purpose of refunding outstanding bonds without thereby contracting any additional indebtedness, and it shall be conditional upon the delivery of any refunding bonds that the bonds to be refunded be canceled and paid simultaneously with the issuance and delivery of such refunding bonds:

Provided, That such refunding bonds shall be issued in an amount sufficient to effect the refunding and may include an amount sufficient to pay (1) the principal amount outstanding of the bonds to be refunded, (2) interest accrued or to accrue to the date of maturity or the date of redemption of the bonds to be refunded (which need not necessarily be on the first available redemption date), (3) any redemption premiums to be paid thereon, (4) any reasonable expenses incurred in connection with such refunding and (5) any other reasonable costs deemed appropriate by the state, including without limitation, the expenses of preparing and delivering the refunding bonds, legal fees, financial advisor fees, consultant fees, and other expenses incurred in connection with the issuance, sale and delivery of the refunding bonds.

For all purposes of this section, bonds shall be considered to have been canceled and paid in advance of their due date or date of redemption if there shall have been deposited with the West Virginia municipal bond commission either:

(a) Moneys, sufficient to pay when and as due at maturity or prior redemption all amounts of principal, redemption premium, if any, and interest payable on such bonds; or

(b) Direct obligations of the United States of America or the state of West Virginia, or obligations fully and irrevocably secured as to the payment of both principal and interest by such direct obligations, the payment on which when due will provide moneys, sufficient to pay
when and as due at maturity or prior redemption all amounts of principal, redemption premium, if any, and interest payable on such bonds.

All such amounts shall be set aside and held in trust and irrevocably dedicated solely to the payment of such bonds, except that amount in excess of the amounts required for the payment of the bonds so refunded may be applied to the payment of costs related to the issuance, carrying, insuring or servicing the refunding bonds, including costs of credit or market enhancement services, such as letters of credit, remarketing arrangements and similar services. Any amount deposited pursuant to this section may include amounts already held on deposit by the West Virginia municipal bond commission for the payment of the bonds to be refunded.

ARTICLE 3. MUNICIPAL BOND COMMISSION.

§13-3-7a. Escrowing bond issues.

(a) All bond issues for which the commission is serving as fiscal agent shall be considered to have been canceled and paid in advance of their due date or date of redemption if there shall have been deposited with the commission either:

(1) Moneys sufficient to pay when and as due at maturity or prior redemption all amounts of principal, redemption premium, if any, and interest payable on such bonds; or

(2) Securities of a quality in which the commission is authorized by law to invest moneys under its control, the principal of and interest on which will provide moneys sufficient to pay when and as due at maturity or prior redemption all amounts of principal, redemption premium, if any, and interest payable on such bonds.

(b) The moneys and securities held by the commission pursuant to this section shall be held by the commission in trust and irrevocably dedicated solely to the payment of principal or redemption price, if applicable, of and interest on the bonds: Provided, That this action shall be taken solely at the direction of the issuer. Following such irrevocable commitment of moneys and securities
in trust, funds on account with the commission for said bonds which are surplus may be immediately returned to the issuer.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest E. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days 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 30th day of March 1994.

Governor