

HB 2031

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SENATE CHAMBERS

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 2037

(By Delegate Mr. Speaku, Mr. Chambers  
and Delegate Ashley)  
[By Request of the Executive]

Passed March 10, 1995

In Effect From Passage



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 2037**

(BY MR. SPEAKER, MR. CHAMBERS, AND DELEGATE ASHLEY)  
[By Request of the Executive]

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[Passed March 10, 1995: in effect from passage.]

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AN ACT to amend and reenact sections three, nine, ten and sixteen, article fifteen-a, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said chapter by adding thereto a new article, designated article fifteen-b, all relating to authorizing the sale of bonds for water, sewer and infrastructure purposes; increasing the number of public members of council; specifying qualifications for public members; authorizing expenses for public members of council; exempting economic development authority and civil contingent fund from council review; providing for the deposit of proceeds in the infrastructure fund derived from the sale of bonds; providing that the fund may be operated as a trust account in a local bank; establishing minimum rates for loans; providing for engineering assistance program; limiting types of engineering information required; providing requirements for disbursement of funds by loan or grant; setting minimum end user utility rates; providing for disbursements to pay debt service on infrastructure general obligation bonds; empower-

ing the governor to issue infrastructure general obligation bonds; creating the infrastructure obligation debt service fund; funding the infrastructure general obligation debt service funds; providing terms for general obligation bonds; setting forth a cap on the interest rate of bonds; directing the use of funds deposited in infrastructure general obligation debt service fund; setting forth the covenants of the state; providing for the sale of general obligation bonds and their minimum price; prohibiting funds inuring to the benefit of or being distributable to directors or officers; providing that infrastructure general obligation bonds are lawful investments; authorizing the water development authority to issue refunding bonds; providing for the termination or dissolution of the water development authority; allowing the governor to select legal advisors; setting forth duties of bond counsel; authorizing the treasurer to select financial advisor; allowing the payment of expenses from debt service fund.

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

That sections three, nine, ten and sixteen, article fifteen-a, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said chapter be further amended by adding thereto a new article, designated article fifteen-b, all to read as follows:

**§31-15A-3. West Virginia infrastructure and jobs development council continued; members of council; staff of council.**

1 (a) The West Virginia infrastructure and jobs develop-  
2 ment council is hereby continued. The council is a gov-  
3 ernmental instrumentality of the state. The exercise by the  
4 council of the powers conferred by this article and the  
5 carrying out of its purpose and duties shall be considered  
6 and held to be, and are hereby determined to be, essential  
7 governmental functions and for a public purpose.

8 (b) The council shall consist of eleven members, in-  
9 cluding the executive director of the housing development  
10 fund or his or her designee, the director of the division of

11 environmental protection or his or her designee; the direc-  
12 tor of the economic development authority or his or her  
13 designee; the director of the water development authority  
14 or his or her designee, the executive director of the state  
15 development office or his or her designee; the director of  
16 the division of health or his or her designee, the chairman  
17 of the public service commission or his or her designee;  
18 and four members representing the general public: *Pro-*  
19 *vided*, That there shall be at least one member represent-  
20 ing the general public from each congressional district:  
21 *Provided, however*, That after the expiration of the term  
22 of office of the members first appointed as representatives  
23 of the general public, no more than one member repre-  
24 senting the general public may be a resident of the same  
25 county. The governor shall appoint the public members  
26 of the council who shall serve three-year staggered terms.  
27 The commissioner of the division of highways, the execu-  
28 tive director of the state rail authority, two members of the  
29 West Virginia Senate, two members of the West Virginia  
30 House of Delegates, one representative of the board of  
31 directors of the state college system and one representative  
32 of the board of trustees of the university of West Virginia  
33 shall serve as advisory members of the council. The gov-  
34 ernor shall appoint the legislative members of the council:  
35 *Provided*, That no more than three of the legislative mem-  
36 bers may be of the same political party. The governor  
37 shall appoint the representatives of the governing boards  
38 from a list of three names submitted by each governing  
39 board. The advisory members shall be ex officio, nonvot-  
40 ing members of the council.

41 (c) The council shall annually elect one of its mem-  
42 bers as chairman, and shall appoint a secretary, who need  
43 not be a member of the council and who shall keep re-  
44 cords of its proceedings. Six members of the council shall  
45 constitute a quorum and the affirmative vote of at least the  
46 majority of those members present shall be necessary for  
47 any action taken by vote of the council. No vacancy in  
48 the membership of the council impairs the rights of a

49 quorum by such vote to exercise all the rights and per-  
50 form all the duties of the council.

51 (d) No member of the council who serves by virtue of  
52 his or her office shall receive any compensation or reim-  
53 bursement of expenses for serving as a member. The  
54 members of the council who represent the general public  
55 shall receive reimbursement for actual expenses incurred  
56 in the service of the council.

57 (e) The council shall meet at least monthly to review  
58 projects and infrastructure projects requesting funding  
59 assistance and otherwise to conduct its business, and shall  
60 meet more frequently if necessary. Notwithstanding any  
61 other provision of this article to the contrary, the econom-  
62 ic development authority shall not be subject to council  
63 review with regard to any action taken pursuant to the  
64 authority established in article fifteen, chapter thirty-one  
65 of this code nor shall the governor's civil contingent fund  
66 be subject to council review with regard to projects or  
67 infrastructure projects funded through the governor's civil  
68 contingent fund.

69 (f) The water development authority shall provide  
70 office space for the council, and each governmental agen-  
71 cy represented on the council shall provide staff support  
72 for the council in the manner determined by the council  
73 from time to time.

74 (g) The council shall invite to all its meetings one or  
75 more representatives of the United States department of  
76 agriculture, Rural Economic Community Development,  
77 the United States economic development agency and the  
78 United States army corps of engineers or any successors  
79 thereto. The council shall also invite such other appropri-  
80 ate parties as may be necessary to effectuate the purposes  
81 of this article.

**§31-15A-9. Infrastructure fund; deposits in fund; disburse-  
ments to provide loans, loan guarantees,  
grants and other assistance; loans, loan guar-**

**antees, grants and other assistance shall be subject to assistance agreements.**

1 (a) The water development authority shall create and  
2 establish a special revolving fund of moneys made avail-  
3 able by appropriation, grant, contribution or loan to be  
4 known as the "West Virginia Infrastructure Fund". This  
5 fund shall be governed, administered and accounted for  
6 by the directors, officers and managerial staff of the water  
7 development authority as a special purpose account sepa-  
8 rate and distinct from any other moneys, funds or funds  
9 owned and managed by the water development authority.  
10 The infrastructure fund shall consist of sub-accounts, as  
11 deemed necessary by the council or the water develop-  
12 ment authority, for the deposit of: (1) Infrastructure reve-  
13 nues; (2) any appropriations, grants, gifts, contributions,  
14 loan proceeds or other revenues received by the infra-  
15 structure fund from any source, public or private; (3)  
16 amounts received as payments on any loans made by the  
17 water development authority to pay for the cost of a pro-  
18 ject or infrastructure project; (4) insurance proceeds pay-  
19 able to the water development authority or the infrastruc-  
20 ture fund in connection with any infrastructure project or  
21 project; (5) all income earned on moneys held in the in-  
22 frastructure fund; (6) all funds deposited in accordance  
23 with section four of article fifteen-b; and (7) all proceeds  
24 derived from the sale of bonds issued pursuant to article  
25 fifteen-b of this chapter.

26 Any money collected pursuant to this section shall be  
27 paid into the West Virginia infrastructure fund by the state  
28 agent or entity charged with the collection of the same,  
29 credited to the infrastructure fund, and used only for pur-  
30 poses set forth in this article or article fifteen-b.

31 Amounts in the infrastructure fund shall be segregated  
32 and administered by the water development authority  
33 separate and apart from its other assets and programs.  
34 Amounts in the infrastructure fund may not be transferred  
35 to any other fund or account or used, other than indirect-

36 ly, for the purposes of any other program of the water  
37 development authority, except that the water development  
38 authority may use funds in the infrastructure fund to re-  
39 imburse itself for any administrative costs incurred by it  
40 and approved by the council in connection with any loan,  
41 loan guarantee, grant or other funding assistance made by  
42 the water development authority pursuant to this article.

43 (b) Notwithstanding any provision of this code to the  
44 contrary, amounts in the infrastructure fund shall be de-  
45 posited by the water development authority in one or  
46 more banking institutions: *Provided*, That any moneys so  
47 deposited shall be deposited in a banking institution locat-  
48 ed in this state. The banking institution shall be selected  
49 by the water development authority by competitive bid.  
50 Pending the disbursement of any money from the infra-  
51 structure fund as authorized under this section, the water  
52 development authority shall invest and reinvest the mon-  
53 eys subject to the limitations set forth in article eighteen,  
54 chapter thirty-one of this code.

55 (c) To further accomplish the purposes and intent of  
56 this article and article fifteen-b of this chapter, the water  
57 development authority may pledge infrastructure revenues  
58 and from time to time establish one or more restricted  
59 accounts within the infrastructure fund for the purpose of  
60 providing funds to guarantee loans for infrastructure pro-  
61 jects or projects: *Provided*, That for any fiscal year the  
62 water development authority may not deposit into the  
63 restricted accounts more than twenty percent of the aggre-  
64 gate amount of infrastructure revenues deposited into the  
65 infrastructure fund during the fiscal year. No loan guar-  
66 antee shall be made pursuant to this article unless recourse  
67 under the loan guarantee is limited solely to amounts in  
68 the restricted account or accounts. No person shall have  
69 any recourse to any restricted accounts established pursu-  
70 ant to this subsection other than those persons to whom  
71 the loan guarantee or guarantees have been made.

72 (d) Each loan, loan guarantee, grant or other assistance  
73 made or provided by the water development authority  
74 shall be evidenced by a loan, loan guarantee, grant or  
75 assistance agreement between the water development au-  
76 thority and the project sponsor to which the loan, loan  
77 guarantee, grant or assistance shall be made or provided,  
78 which agreement shall include, without limitation and to  
79 the extent applicable, the following provisions:

80 (1) The estimated cost of the infrastructure project or  
81 project, the amount of the loan, loan guarantee or grant or  
82 the nature of the assistance, and in the case of a loan or  
83 loan guarantee, the terms of repayment and the security  
84 therefor, if any;

85 (2) The specific purposes for which the loan or grant  
86 proceeds shall be expended or the benefits to accrue from  
87 the loan guarantee or other assistance, and the conditions  
88 and procedure for disbursing loan or grant proceeds;

89 (3) The duties and obligations imposed regarding the  
90 acquisition, construction, improvement or operation of the  
91 project or infrastructure project; and

92 (4) The agreement of the governmental agency to  
93 comply with all applicable federal and state laws, and all  
94 rules and regulations issued or imposed by the water de-  
95 velopment authority or other state, federal or local bodies  
96 regarding the acquisition, construction, improvement or  
97 operation of the infrastructure project or project and  
98 granting the water development authority the right to  
99 appoint a receiver for the project or infrastructure if the  
100 project sponsor should default on any terms of the agree-  
101 ment.

102 (e) Any resolution of the water development authority  
103 approving loan, loan guarantee, grant or other assistance  
104 shall include a finding and determination that the require-  
105 ments of this section have been met.



106 (f) The interest rate on any loan to governmental,  
107 quasi-governmental, or not for profit project sponsors for  
108 projects made pursuant to this article shall not exceed  
109 three percent per annum. Due the limited availability of  
110 funds available for loans for projects, it is the public poli-  
111 cy of this state to prioritize funding needs to first meet the  
112 needs of governmental, quasi-governmental and not for  
113 profit project sponsors and to require that loans made to  
114 for-profit entities shall bear interest at the current market  
115 rates. Therefore, no loan may be made by the council to a  
116 for-profit entity at an interest rate which is less than the  
117 current market rate at the time of the loan agreement.

118 (g) The water development authority shall cause an  
119 annual audit to be made by an independent certified pub-  
120 lic accountant of its books, accounts and records, with  
121 respect to the receipts, disbursements, contracts, leases,  
122 assignments, loans, grants and all other matters relating to  
123 the financial operation of the infrastructure fund, includ-  
124 ing the operating of any sub-account within the infrastruc-  
125 ture fund. The person performing such audit shall furnish  
126 copies of the audit report to the commissioner of finance  
127 and administration, where they shall be placed on file and  
128 made available for inspection by the general public. The  
129 person performing such audit shall also furnish copies of  
130 the audit report to the Legislature's joint committee on  
131 government and finance.

**§31-15A-10. Recommendations by council for expenditures of  
funds by loan, grant or for engineering assis-  
tance.**

1 (a) To further accomplish the purpose and intent of  
2 this article, the water development authority shall use the  
3 moneys in the infrastructure fund created pursuant to  
4 section nine of this article, upon receipt of one or more  
5 recommendations from the council pursuant to section  
6 five of this article, to make loans, with or without interest,  
7 loan guarantees or grants and to provide other assistance,  
8 financial, technical or otherwise, to finance all or part of

9 the costs of infrastructure projects or projects to be under-  
10 taken by a project sponsor: *Provided*, That any moneys  
11 disbursed from the infrastructure fund in the form of  
12 grants shall not exceed twenty percent of the total funds  
13 available for the funding of projects. No loan, loan guar-  
14 antee, grant or other assistance shall be made or provided  
15 except upon a determination by the council that the loan,  
16 loan guarantee, grant or other assistance and the manner  
17 in which it will be provided are necessary or appropriate to  
18 accomplish the purposes and intent of this article, based  
19 upon an application submitted to the council: *Provided*,  
20 *however*, That no grant shall be made to a project sponsor  
21 that is not a governmental agency or a not for profit cor-  
22 poration under the provisions of section 501(c) of the  
23 Internal Revenue Code of 1986, as amended. Applica-  
24 tions for loans, loan guarantees, grants or other assistance  
25 may be submitted by a project sponsor for one or more  
26 infrastructure projects on preliminary application forms  
27 prepared by the council pursuant to section four of this  
28 article. Any recommendation of the council approving a  
29 loan, loan guarantee, grant or other assistance shall include  
30 a finding and determination by the council that the re-  
31 quirements of this section have been met. The council  
32 shall base any decisions to loan money for projects to  
33 project sponsors pursuant to this article solely on the need  
34 of the project sponsors.

35 (b) The council has the authority in its sole discretion  
36 to make grants to project sponsors if it finds that: (1) The  
37 level of rates for the users would otherwise be an unrea-  
38 sonable burden given the users' likely ability to pay; or (2)  
39 the absence of a sufficient number of users prevents fund-  
40 ing of the project except through grants: *Provided*, That  
41 no project sponsor shall receive infrastructure grant mon-  
42 ey in an amount in excess of fifty percent of the total cost  
43 of the project. Therefore, the council may consider the  
44 economic or financial conditions of the area to be served.  
45 As a condition for receipt of a grant under this subsection,  
46 the council may require, in addition to any other condi-

47 tions, that the applicant pursue other state or federal grant  
48 or loan programs. Upon a recommendation by the coun-  
49 cil, the water development authority shall provide the grant  
50 in accordance with the recommendation. The council  
51 shall develop criteria to be considered in making grants to  
52 project sponsors which shall require consideration of the  
53 economic or financial conditions of the area to be served  
54 and the availability of other funding sources. The council  
55 shall adopt procedural rules regarding the manner in  
56 which grants will be awarded in conformity with this sec-  
57 tion. The procedural rules shall be adopted pursuant to  
58 article three, chapter twenty-nine-a of this code.

59 (c) The council shall affix a mandatory minimum end  
60 user utility rate that must be met by the project sponsor  
61 before grant assistance may be awarded. The mandatory  
62 minimum utility rate shall be established by legislative rule  
63 promulgated in accordance with article three, chapter  
64 twenty-nine-a of this code. The rule shall provide that the  
65 mandatory minimum utility rate be based upon a uniform  
66 statewide percentage of the median household income in a  
67 particular geographic area which is rationally related to  
68 the geographic area of the project to be served.

69 (d) No loan or grant funds may be made available for  
70 a projects if the project to be funded will provide subsi-  
71 dized services to certain users in the service area of the  
72 project.

73 (e) Notwithstanding any other provision of this article  
74 to the contrary, engineering studies and requirements  
75 imposed by the council for preliminary applications shall  
76 not exceed those engineering studies and requirements  
77 which are necessary for the council to determine the eco-  
78 nomic feasibility of the project. If the council determines  
79 that the engineering studies and requirements for the  
80 pre-application would impose an undue hardship on any  
81 project sponsor, the council may provide funding assis-  
82 tance to project sponsors to defray the expenses of the  
83 pre-application process from moneys available in the

84 infrastructure fund for making loans: *Provided*, That the  
85 council may only provide funding assistance in an amount  
86 equal to five thousand dollars or fifty percent of the total  
87 preapplication cost of the project, whichever amount is  
88 greater. If the project is ultimately approved for a loan by  
89 the council, the amount of funding assistance provided to  
90 the project sponsor for the pre-application process shall be  
91 included in the total amount of the loan to be repaid by  
92 the project sponsor. If the project is not ultimately ap-  
93 proved by the council, then the amount of funding assis-  
94 tance provided to the project sponsor will be considered a  
95 grant by the council and the total amount of the assistance  
96 shall be forgiven. In no event may the amount of funding  
97 assistance provided to all project sponsors exceed, in the  
98 aggregate, one hundred thousand dollars annually.

**§31-15A-16. Dedication of severance tax proceeds.**

1 (a) There shall be dedicated an annual amount from  
2 the collections of the tax collected pursuant to article  
3 thirteen-a, chapter eleven of this code for the construction,  
4 extension, expansion, rehabilitation, repair and improve-  
5 ment of water supply and sewage treatment systems and  
6 for the acquisition, preparation, construction and improve-  
7 ment of sites for economic development in this state as  
8 provided in this article.

9 (b) Notwithstanding any other provision of this code  
10 to the contrary, beginning on the first day of July, one  
11 thousand nine hundred ninety-five, the first sixteen mil-  
12 lion dollars of the tax collected pursuant to article  
13 thirteen-a, chapter eleven of this code shall be deposited to  
14 the credit of the West Virginia infrastructure general obli-  
15 gation debt service fund created pursuant to section three,  
16 article fifteen-b of this chapter: *Provided*, That none of  
17 the collections from the tax imposed pursuant to section  
18 six, article thirteen-a, chapter eleven of this code shall be  
19 so dedicated or deposited: *Provided, however*, That the  
20 portion of the tax imposed by article thirteen-a, chapter  
21 eleven and dedicated for purposes of medicaid and the

22 division of forestry pursuant to section twenty-a of said  
23 article thirteen-a shall remain dedicated for the purposes  
24 set forth in said section twenty-a.

25 (c) On or before the first day of May of each year,  
26 commencing the first day of May, one thousand nine  
27 hundred ninety-five, the council, by resolution, shall certi-  
28 fy to the treasurer and the water development authority the  
29 principal and interest coverage ratio and amount for the  
30 following fiscal year on any infrastructure general obliga-  
31 tion bonds issued pursuant to the provisions of article  
32 fifteen-b of this chapter.

**ARTICLE 15B. INFRASTRUCTURE BONDS.**

**§31-15B-1. Definitions.**

1 For purposes of this article and article fifteen-a  
2 of this chapter:

3 (a) "Council" means the West Virginia infrastructure  
4 and jobs development council created in section three,  
5 article fifteen-a of this chapter;

6 (b) "Infrastructure amendment" means the amend-  
7 ment to the Constitution of this State entitled "infrastruc-  
8 ture amendment" as approved by referendum in the  
9 month of November, one thousand nine hundred  
10 ninety-four;

11 (c) "Infrastructure general obligation bond" means  
12 any bond or bonds issued by the state pursuant to section  
13 two of this article.

14 (d) "Water development authority" means the West  
15 Virginia water development authority established under  
16 article one, chapter twenty-two-c of this code, or any suc-  
17 cessor to all or any substantial part of its powers and du-  
18 ties.

**§31-15B-2. Infrastructure general obligation bonds; amount;  
when may issue.**

1 Bonds of the state of West Virginia, under authority of  
2 the infrastructure improvement amendment of 1994, of  
3 the par value not to exceed in the aggregate three hundred  
4 million dollars, are hereby authorized to be issued and  
5 sold solely for the construction, extension, expansion,  
6 rehabilitation, repair and improvement of water supply  
7 and sewage treatment systems and for the acquisition,  
8 preparation, construction and improvement of sites for  
9 economic development as provided for by the constitution  
10 and the provisions of this article.

11 These bonds may be issued by the governor upon  
12 resolution by the infrastructure council and certification to  
13 the governor. The bonds shall bear such date and mature  
14 at such time, bear interest at such rate not to exceed eight  
15 percent per annum, be in such amounts, be in such de-  
16 nominations, be in such registered form, carry such regis-  
17 tration privileges, be due and payable at such time and  
18 place and in such amounts, and subject to such terms of  
19 redemption as such resolution may provide: *Provided,*  
20 That in no event may the amount of bonds outstanding  
21 exceed an amount for which sixteen million dollars would  
22 not be sufficient to provide annual service on the total  
23 amount of debt outstanding.

24 Both the principal and interest of the bonds shall be  
25 payable in the lawful money of the United States of Amer-  
26 ica and the bonds and the interest thereon shall be exempt  
27 from taxation by the state of West Virginia, or by any  
28 county, district or municipality thereof, which fact shall  
29 appear on the face of the bonds as part of the contract  
30 with the holder of the bond.

31 The bonds shall be executed on behalf of the state of  
32 West Virginia, by the manual or facsimile signature of the  
33 treasurer thereof, under the great seal of the state or a  
34 facsimile thereof, and countersigned by the manual or  
35 facsimile signature of the auditor of the state.

**§31-15B-3. Creation of debt service fund; disbursements to pay debt service on infrastructure general obligation bonds.**

1       There is hereby created a special account in the state  
2 treasury, which shall be designated and known as the "West  
3 Virginia Infrastructure General Obligation Debt Service  
4 Fund", into which shall be deposited amounts pursuant to  
5 the provisions of section sixteen, article fifteen-a of this  
6 chapter, as well as any amounts appropriated by the Legis-  
7 lature.

**§31-15B-4. Infrastructure general obligation debt service fund; sources used to pay bonds and interest; investment of remainder.**

1       All money from any and all appropriations made by  
2 the state, all moneys transferred pursuant to the provisions  
3 of section sixteen, article fifteen-a, of this chapter and all  
4 moneys from any other source whatsoever which is made  
5 liable by law for the payment of the principal of such  
6 bonds or the interest thereon shall be deposited into the  
7 infrastructure general obligation debt service fund. Mon-  
8 eys shall be kept by the treasurer in a separate account,  
9 under the designation aforesaid, and all moneys belonging  
10 to the infrastructure general obligation debt service fund  
11 shall be deposited in the state treasury to the credit there-  
12 of.

13       This fund shall be applied by the treasurer to the pay-  
14 ment of the principal and interest on such bonds as shall  
15 become due as herein provided. Any funds remaining  
16 after certification of the amount necessary for the pay-  
17 ment of principal and interest as provided by section six-  
18 teen, article fifteen-a and expenses authorized pursuant to  
19 section thirteen of this article shall be deposited to the  
20 credit of the infrastructure fund.

**§31-15B-5. Covenants of state.**

1 The state of West Virginia covenants and agrees with  
 2 the holders of the bonds issued pursuant hereto as follows:  
 3 (1) That such bonds shall constitute a direct and general  
 4 obligation of the state of West Virginia; (2) that the full  
 5 faith and credit of the state is hereby pledged to secure the  
 6 payment of the principal and interest of such bonds; (3)  
 7 that an annual state tax shall be collected in an amount  
 8 sufficient to pay as it may accrue the interest on such  
 9 bonds and the principal thereof; and (4) that such tax shall  
 10 be levied in any year only to the extent that the moneys  
 11 transferred to the infrastructure general obligation debt  
 12 service fund as provided in section sixteen, article fifteen-a  
 13 of this chapter which are irrevocably set aside and appro-  
 14 priated for and applied to the payment of the interest on  
 15 and principal of any bond becoming due and payable in  
 16 such year are insufficient therefor.

**§31-15B-6. Sale by governor; minimum price.**

1 The governor shall sell the bonds herein authorized at  
 2 such time or times as the council, by resolution, may de-  
 3 termine necessary to provide funds for purposes set forth  
 4 in this article and article fifteen-a of this chapter. Sales  
 5 shall be at not less than par and accrued interest.

6 The bonds must be offered for competitive bids from  
 7 recognized financial investment institutions before the  
 8 bonds may be sold: *Provided*, That the bid process is not  
 9 subject to the provisions of article three-a, chapter five-a  
 10 of this code. Any and all of the bids may be rejected. If  
 11 the bonds are not sold pursuant to the competitive bid  
 12 process, the bonds may, within sixty days after the date the  
 13 bids are received, be sold at private sale: *Provided*, That  
 14 no private sale shall be made at a price less than the high-  
 15 est bid received.

**§31-15B-7. Prohibition on funds inuring to the benefit of or  
 being distributable to directors or officers;  
 transactions between the council and West  
 Virginia water development authority and di-**



**rectors or officers having certain interests in such transactions.**

1 No part of the infrastructure fund shall inure to the  
2 benefit of or be distributable to the commissioners of the  
3 public service commission, the council, or the West Virgin-  
4 ia water development authority's directors or officers. The  
5 council may approve and the water development authority  
6 make loans and exercise other powers as previously speci-  
7 fied in furtherance of their corporate purpose: *Provided,*  
8 That no loans shall be made, nor shall any property be  
9 purchased or leased from, or sold, leased or otherwise  
10 disposed of, to any commissioner, director or officer of  
11 the council, the public service commission or the West  
12 Virginia water development authority.

**§31-15B-8. Infrastructure bonds lawful investments.**

1 All infrastructure bonds issued pursuant to this article  
2 shall be lawful investments for banking institutions, societ-  
3 ies for savings, building and loan associations, savings and  
4 loan associations, deposit guarantee associations, trust  
5 companies, insurance companies, including domestic for  
6 life and domestic not for life insurance companies.

**§31-15B-9. Refunding bonds.**

1 Any infrastructure general obligation bonds which are  
2 outstanding may at any time be refunded by the issuance  
3 of refunding bonds in an amount deemed necessary to  
4 refund the principal of the bonds to be refunded, together  
5 with any unpaid interest thereon; to accomplish the pur-  
6 pose of this article and article fifteen-a of this chapter; and  
7 to pay any premiums and commissions necessary to be  
8 paid in connection therewith. Any refunding may be  
9 effected whether the infrastructure general obligation  
10 bonds to be refunded shall have then matured or shall  
11 thereafter mature. Any refunding bonds issued pursuant  
12 to this article shall be payable from the infrastructure  
13 general obligation bond debt service fund, and shall be  
14 subject to the provisions contained in section eleven, arti-

15 cle fifteen-a of this chapter and shall be secured in accor-  
16 dance with the provisions of this article.

**§31-15B-10. Termination or dissolution.**

1       Upon the termination or dissolution of the West Vir-  
2 ginia water development authority, all rights and proper-  
3 ties of the West Virginia water development authority with  
4 respect to the infrastructure fund shall pass to and be vest-  
5 ed in the state, subject to the rights of bondholders,  
6 lienholders and other creditors.

**§31-15B-11. Treasurer to determine financial advisor.**

1       The treasurer shall select a competent person or firm  
2 to serve as financial advisor for the issuance and sale of  
3 general obligation bonds issued pursuant to this article.

**§31-15B-12. Governor to determine bond counsel.**

1       The governor shall select a competent person or firm  
2 to serve as bond counsel who shall be responsible for the  
3 issuance of a final approving opinion regarding the legali-  
4 ty of the sale of general obligation bonds issued pursuant  
5 to this article. Notwithstanding the provisions of article  
6 three, chapter five of this code, bond counsel may repre-  
7 sent the council in court, render advice to the council and  
8 provide other legal services as may be requested by the  
9 council regarding any bond issuance pursuant to this  
10 article and all other matter relating to the bond issue.

**§31-15B-13. Approval and payment of all necessary expenses.**

1       All necessary expenses, including legal expenses, in-  
2 curred in the issuance of any general obligation bonds  
3 pursuant to this article shall be paid out of the infrastruc-  
4 ture general obligation debt service fund. The amount of  
5 any expenses incurred shall be certified to the water devel-  
6 opment authority.

Enr. Com. Sub. for H. B. 2037] 18

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

Randy Schoonover  
Chairman Senate Committee

Ernest E. Moore  
Chairman House Committee

Originating in the House.

Takes effect from passage.

Harrell Edwards  
Clerk of the Senate

Donald L. Hoopp  
Clerk of the House of Delegates

Earl Ray Tomblin  
President of the Senate

Paul Abner  
Speaker of the House of Delegates

The within is approved this the 24th  
day of March, 1995.

Walter D. Jones  
Governor



PRESENTED TO THE

GOVERNOR. R

Date 3/22/95

Time 11:00am