

HB 2045

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

— ● —

# ENROLLED

Com. Sub. for  
HOUSE BILL No. 2045

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

— ● —

Passed March 3, 1995

In Effect 90 Days From Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 2045**

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

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[Passed March 3, 1995; in effect ninety days from passage.]

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AN ACT to amend and reenact sections four, five and twenty-seven, article one, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the water development authority; reinstating annual salaries of appointed board members; refinancing projects; and increasing the authorized limit on borrowing of the water development authority.

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

That sections four, five and twenty-seven, article one, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 1. WATER DEVELOPMENT AUTHORITY.**

**§22C-1-4. Water development authority; water development board; organization of authority and board; appointment of board members; their term of office, compensation and expenses; director of authority.**

1 The water development authority is continued. The  
2 authority is a governmental instrumentality of the state  
3 and a body corporate. The exercise by the authority of the  
4 powers conferred by this article and the carrying out of its  
5 purposes and duties are essential governmental functions  
6 and for a public purpose.

7 The authority is controlled, managed and operated by  
8 the seven-member board known as the water development  
9 board. The director of the division of environmental  
10 protection, and the commissioner of the bureau of public  
11 health and the state officer or employee who in the  
12 judgment of the governor is most responsible for  
13 economic or community development are members ex  
14 officio of the board. The governor shall designate  
15 annually the member who is the state officer or employee  
16 most responsible for economic or community develop-  
17 ment. The other four members of the board are appointed  
18 by the governor, by and with the advice and consent of the  
19 Senate, for terms of two, three, four and six years,  
20 respectively. The successor of each such appointed  
21 member shall be appointed for a term of six years in the  
22 same manner the original appointments were made, except  
23 that any person appointed to fill a vacancy occurring prior  
24 to the expiration of the term for which his or her  
25 predecessor was appointed shall be appointed only for the  
26 remainder of such term. Each board member serves until  
27 the appointment and qualification of his or her successor.  
28 No more than two of the appointed board members shall  
29 at any one time belong to the same political party.  
30 Appointed board members may be reappointed to serve  
31 additional terms.

32 All members of the board shall be citizens of the state.  
33 Each appointed member of the board, before entering  
34 upon his or her duties, shall comply with the requirements  
35 of article one, chapter six of this code and give bond in  
36 the sum of twenty-five thousand dollars in the manner  
37 provided in article two, chapter six of this code. The  
38 governor may remove any board member for cause as  
39 provided in article six, chapter six of this code.

40 Annually the board shall elect one of its appointed

41 members as chair and another as vice-chair, and shall  
42 appoint a secretary-treasurer, who need not be a member  
43 of the board. Four members of the board is a quorum and  
44 the affirmative vote of four members is necessary for any  
45 action taken by vote of the board. No vacancy in the  
46 membership of the board impairs the rights of a quorum  
47 by such vote to exercise all the rights and perform all the  
48 duties of the board and the authority. The person  
49 appointed as secretary-treasurer, including a board  
50 member if he or she is so appointed, shall give bond in the  
51 sum of fifty thousand dollars in the manner provided in  
52 article two, chapter six of this code.

53 The director of the division of environmental  
54 protection, the commissioner of the bureau of public  
55 health and the state officer or employee most responsible  
56 for economic or community development shall not receive  
57 any compensation for serving as board members. Each of  
58 the four appointed members of the board shall receive an  
59 annual salary of five thousand dollars, payable in monthly  
60 installments. Each of the seven board members shall be  
61 reimbursed for all reasonable and necessary expenses  
62 actually incurred in the performance of his duties as a  
63 member of such board. All such expenses incurred by the  
64 board are payable solely from funds of the authority or  
65 from funds appropriated for such purpose by the  
66 Legislature and no liability or obligation shall be incurred  
67 by the authority beyond the extent to which moneys are  
68 available from funds of the authority or from such  
69 appropriations.

70 There shall also be a director of the authority  
71 appointed by the board.

**22C-1-5. Authority may construct, finance, maintain, etc.,  
water development projects; loans to govern-  
mental agencies are subject to terms of loan  
agreements.**

1 To accomplish the public policies and purposes and to  
2 meet the responsibility of the state as set forth in this  
3 article, the water development authority may initiate,  
4 acquire, construct, maintain, repair and operate water  
5 development projects or cause the same to be operated

6 pursuant to a lease, sublease or agreement with any person  
7 or governmental agency; may make loans and grants to  
8 governmental agencies for the acquisition or construction  
9 of water development projects by governmental agencies,  
10 which loans may include amounts to refinance debt issued  
11 for existing water development projects of the govern-  
12 mental agency when the refinancing is in conjunction with  
13 the financing for a new water development project  
14 regardless of the source of the financing for the new  
15 project: *Provided*, That the amount of the refinancing may  
16 not exceed fifty percent of the aggregate amount of the  
17 refinancing of an existing project and the financing of a  
18 new project; and may issue water development revenue  
19 bonds of this state, payable solely from revenues, to pay  
20 the cost of projects, or finance projects, in whole or in part,  
21 by loans to governmental agencies. A water development  
22 project shall not be undertaken unless it has been  
23 determined by the authority to be consistent with any  
24 applicable comprehensive plan of water management  
25 approved by the director of the division of environmental  
26 protection or in the process of preparation by the director  
27 and to be consistent with the standards set by the state  
28 environmental quality board, for the waters of the state  
29 affected thereby. Any resolution of the authority provid-  
30 ing for acquiring or constructing projects or for making a  
31 loan or grant for projects shall include a finding by the  
32 authority that the determinations have been made. A loan  
33 agreement shall be entered into between the authority and  
34 each governmental agency to which a loan is made for the  
35 acquisition or construction of a water development project,  
36 which loan agreement shall include, without limitation, the  
37 following provisions:

38 (1) The cost of the project, the amount of the loan, the  
39 terms of repayment of the loan and the security therefor,  
40 which may include, in addition to the pledge of all  
41 revenues from the project after a reasonable allowance for  
42 operation and maintenance expenses, a deed of trust or  
43 other appropriate security instrument creating a lien on  
44 the project;

45 (2) The specific purposes for which the proceeds of  
46 the loan shall be expended including the refinancing of

47 existing water development project debt as provided  
48 above, the procedures as to the disbursement of loan  
49 proceeds and the duties and obligations imposed upon the  
50 governmental agency in regard to the construction or  
51 acquisition of the project;

52 (3) The agreement of the governmental agency to  
53 impose, collect, and, if required to repay the obligations of  
54 the governmental agency under the loan agreement,  
55 increase service charges from persons using the project,  
56 which service charges shall be pledged for the repayment  
57 of the loan together with all interest, fees and charges  
58 thereon and all other financial obligations of the  
59 governmental agency under the loan agreement; and

60 (4) The agreement of the governmental agency to  
61 comply with all applicable laws, rules and regulations  
62 issued by the authority or other state, federal and local  
63 bodies in regard to the construction, operation,  
64 maintenance and use of the project.

**§22C-1-27. Authorized limit on borrowing.**

1 The aggregate principal amount of bonds and notes  
2 issued by the authority shall not exceed three hundred  
3 million dollars outstanding at any one time: *Provided,*  
4 That in computing the total amount of bonds and notes  
5 which may at any one time be outstanding, the principal  
6 amount of any outstanding bonds or notes refunded or to  
7 be refunded either by application of the proceeds of the  
8 sale of any refunding bonds or notes of the authority or  
9 by exchange for any refunding bonds or notes, shall be  
10 excluded.

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

*Randy Schoorover*  
Chairman Senate Committee

*Ernest C. Moore*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Darrell E. Brown*  
Clerk of the Senate

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

*Earl Ray Tomblin*  
President of the Senate

*Michael E. Capron*  
Speaker of the House of Delegates

The within 15 approved this the 14<sup>th</sup>  
day of March, 1995.

*Gaston Capron*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/9/95

Time 3:26 pm