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

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

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

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

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

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

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

To accomplish the public policies and purposes and to meet the responsibility of the state as set forth in this article, the water development authority may initiate, acquire, construct, maintain, repair and operate water development projects or cause the same to be operated
pursuant to a lease, sublease or agreement with any person
or governmental agency; may make loans and grants to
governmental agencies for the acquisition or construction
of water development projects by governmental agencies,
which loans may include amounts to refinance debt issued
for existing water development projects of the govern-
mental agency when the refinancing is in conjunction with
the financing for a new water development project
regardless of the source of the financing for the new
project: Provided, That the amount of the refinancing may
not exceed fifty percent of the aggregate amount of the
refinancing of an existing project and the financing of a
new project; and may issue water development revenue
bonds of this state, payable solely from revenues, to pay
the cost of projects, or finance projects, in whole or in part,
by loans to governmental agencies. A water development
project shall not be undertaken unless it has been
determined by the authority to be consistent with any
applicable comprehensive plan of water management
approved by the director of the division of environmental
protection or in the process of preparation by the director
and to be consistent with the standards set by the state
environmental quality board, for the waters of the state
affected thereby. Any resolution of the authority provid-
ing for acquiring or constructing projects or for making a
loan or grant for projects shall include a finding by the
authority that the determinations have been made. A loan
agreement shall be entered into between the authority and
each governmental agency to which a loan is made for the
acquisition or construction of a water development project,
which loan agreement shall include, without limitation, the
following provisions:

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

(2) The specific purposes for which the proceeds of
the loan shall be expended including the refinancing of
existing water development project debt as provided above, the procedures as to the disbursement of loan proceeds and the duties and obligations imposed upon the governmental agency in regard to the construction or acquisition of the project;

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

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

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

The aggregate principal amount of bonds and notes issued by the authority shall not exceed three hundred million dollars outstanding at any one time: Provided, That in computing the total amount of bonds and notes which may at any one time be outstanding, the principal amount of any outstanding bonds or notes refunded or to be refunded either by application of the proceeds of the sale of any refunding bonds or notes of the authority or by exchange for any refunding bonds or notes, shall be excluded.
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 ___th day of March, 1995.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/9/5
Time 3:26 pm