WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

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ENROLLED

Com. Sub. for
House Bill No. 4447

(By Mr. Speaker, Mr. Kiss, and Delegates Martin, Michael, Staton, Mezzatesta, Varner and Ashley)

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Passed March 14, 1998

In Effect Ninety Days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4447

(BY MR. SPEAKER, MR. KISS, AND DELEGATES MARTIN, MICHAEL,
STATON, MEZZATESTA, VARNER AND ASHLEY)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, eight, ten, eleven,
thirteen and sixteen, article fifteen-a, chapter thirty-one of
the code of West Virginia, one thousand nine hundred thirty­
one, as amended; to further amend said article by adding
thereto eight new sections, designated sections seventeen,
eighteen, nineteen, twenty, twenty-one, twenty-two, twenty­three and twenty-four; and to amend and reenact section two,
article fifteen-b of said chapter, all relating to infrastructure
development generally; defining infrastructure revenue bond
and needs of the project sponsor; requiring application of
mandatory minimum end user rate; establishing uniform
statewide percentage of the median household income in a
particular geographic area; consideration of surveys of
income of households; division of funding assistance among
regions; prohibiting water development board members and
water development authority officers from receiving any
benefit or distribution from West Virginia infrastructure
revenue debt service fund; exceptions; increasing portion of
dedicated tax to be deposited into infrastructure government
obligation debt service fund; authorizing water development
authority to issue infrastructure revenue bonds; restrictions; permitted uses of revenue bond proceeds; required documentation from infrastructure council; creation of West Virginia infrastructure revenue debt service fund; sources of funding of revenue debt service fund; purposes for which revenue debt service fund may be used; procedures for the issuance of revenue bonds; revenue bond requirements; authorized revenue bond provisions and agreements; procedures for certification of deficiency in reserves pledged for payment of revenue bonds; liability of water development board members and water development authority officers; trust agreements required to secure revenue bonds; required and authorized trust agreement provisions; requirements of depositories of funds; remedies of bondholders; legality of investments in revenue bonds; redemption and refunding of revenue bonds; providing that revenue bonds do not constitute debt or pledge of state; exemption from taxation; and increasing limitation on amount of outstanding government obligation bonds.

Be it enacted by the Legislature of West Virginia:

That sections two, eight, ten, eleven, thirteen 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; that said article be further amended by adding thereto eight new sections, designated sections seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three and twenty-four; and that section two, article fifteen-b of said chapter be amended and reenacted, all to read as follows:

ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.


1 For purposes of this article:

2 (a) "Bond" or "infrastructure revenue bond" means a revenue bond, note, or other obligation issued by the water development authority pursuant to this article, including bonds to refund such bonds and notes to renew such notes, and notes in anticipation of and payable from the proceeds of such bonds.
(b) "Code" means the code of West Virginia, one thousand nine hundred thirty-one, as amended;

(c) "Cost" means, as applied to any project to be financed, in whole or in part, with infrastructure revenues or funds otherwise provided pursuant to this article, the cost of planning, acquisition, improvement and construction of the project; the cost of preliminary design and analysis, surveys, borings; the cost of environmental, financial, market and engineering feasibility studies, assessments, applications, approvals, submissions or clearances; the cost of preparation of plans and specifications and other engineering services; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and any other interests required for the acquisition, repair, improvement or construction of the project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of excavation, grading, shaping or treatment of earth, demolishing or removing any buildings or structures; the cost of constructing any buildings or other improvements; the cost of all pumps, tanks, vehicles, apparatus and other machinery, furnishings and equipment; loan or origination fees and all finance charges and interest incurred prior to and during the construction and for no more than six months after completion of construction; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring, repairing, improving or constructing any project; the cost of placing any project in operation; and all other costs and expenses of any kind or nature incurred or to be incurred by the project sponsor developing the project that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project: Provided, That costs shall not include any amounts related to the ongoing operations of the owner or operator, depreciation thereof or any other cost which the council or the water
(d) "Council" means the West Virginia infrastructure and jobs development council created in section three of this article;

(e) "Division of environmental protection" means the division of environmental protection established under article one, chapter twenty-two of this code, or any successor to all or any substantial part of its powers and duties;

(f) "Division of health" means the division of health created in article one, chapter sixteen of this code, or any successor to all or any substantial part of its powers and duties;

(g) "Economic development authority" means the economic development authority established under article fifteen, chapter thirty-one of the code, or any successor to all or any substantial part of its powers and duties;

(h) "Emergency project" means a project which the council has determined (1) is essential to the immediate economic development of an area of the state and (2) will not likely be developed in that area if construction of the project is not commenced immediately;

(i) "Governmental agency" means any county; municipality; watershed improvement district; assessment district; soil conservation district; sanitary district; public service district; drainage district; regional governmental authority and any other state governmental agency, entity, political subdivision or public corporation or agency authorized to acquire, construct or operate water or wastewater facilities or infrastructure projects;

(j) "Housing development fund" means the West Virginia housing development fund established under article eighteen of this chapter, or any successor to all or any substantial part of its powers and duties;
(k) "Infrastructure fund" means the West Virginia infrastructure fund created and established in section nine of this article;

(l) "Infrastructure project" means a project in the state which the council determines is likely to foster and enhance economic growth and development in the area of the state in which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes, including, without limitation, tourism and recreational housing, land, air or water transportation facilities and bridges, industrial or commercial projects and facilities, mail order, warehouses, wholesale and retail sales facilities and other real and personal properties, including facilities owned or leased by this state or any other project sponsor, and includes, without limitation (1) the process of acquiring, holding, operating, planning, financing, demolition, construction, improving, expanding, renovation, leasing or otherwise disposing of the project or any part thereof or interest therein, and (2) preparing land for construction and making, installing or constructing improvements on the land, including water or wastewater facilities or any part thereof, steam, gas, telephone and telecommunications and electric lines and installations, roads, bridges, railroad spurs, buildings, docking and shipping facilities, curbs, gutters, sidewalks, and drainage and flood control facilities, whether on or off the site;

(m) "Infrastructure revenue" means all amounts appropriated by the Legislature; all amounts deposited into the infrastructure fund; any amounts received, directly or indirectly, from any source for the use of all or any part of any project completed pursuant to this article; and any other amounts received by the state treasurer, council or the water development authority for the purposes of this article;

(n) "Need of the project sponsors" means there is a public need for a project. The council shall construe a population increase evidenced by the last two decennial censuses in a county in which a project is proposed, as a
factor supporting the conclusion that a need exists for
projects in that county.

(o) "Project" means any wastewater facility, water
facility project or any combination thereof, constructed or
operated or to be constructed or operated by a project
sponsor;

(p) "Project sponsor" means any governmental agency
or person, or any combination thereof, including, but not
limited to, any public utility, which intends to plan,
acquire, construct, improve or otherwise develop a project;

(q) "Public service commission" means the public
service commission of West Virginia created and
established under section three, article one, chapter
twenty-four of this code, or any successor to all or any
substantial part of its powers and duties;

(r) "Person" means any individual, corporation,
partnership, association, limited liability company or any
other form of business organization;

(s) "Public utility" means any person or persons, or
association of persons, however associated, whether
incorporated or not, including, without limitation, any
governmental agency, operating a wastewater facility or
water facility as a public service, which is regulated by the
public service commission as a public utility under chapter
twenty-four of this code or which is required to file its
tariff with the public service commission;

(t) "State development office" means the West Virginia
development office established under article two, chapter
five-b of this code, or any successor to all or any
substantial part of its powers and duties;

(u) "State infrastructure agency" means the division of
health, division of environmental protection, housing
development fund, public service commission, state
development office, water development authority,
economic development authority and any other state
agency, division, body, authority, commission,
instrumentality or entity which now or in the future
receives applications for the funding of, and provides
funding or technical assistance to, the planning, acquisition, construction or improvement of a project;

(v) "Waste water facility" means all facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without limitation, facilities for the treatment and disposal of sewage, industrial wastes or other wastes, wastewater, and the residue thereof; facilities for the temporary or permanent impoundment of wastewater, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport wastewater together with the equipment and furnishings therefor or thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefor;

(w) "Water development authority" means the West Virginia water development authority continued pursuant to the provisions of article one, chapter twenty-two-c of this code, or any successor to all or any substantial part of its powers and duties; and

(x) "Water facility" means all facilities, land and equipment used for or in connection with the collection and/or storage of water, both surface and underground, transportation of water, storage of water, treatment of water and distribution of water all for the purpose of providing potable, sanitary water suitable for human consumption and use.

§31-15A-8. Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by public service commission; and exemption for North Fork Hughes River watershed project.

(a) If the council determines a project to be an emergency and the emergency project will be funded solely with grant money for the extension of an existing certificated water facility or wastewater facility, and if the council finds in its recommendation that the construction
and acquisition of the emergency project will have no effect on the public utility's customer rates and will have no significant effect on its operational costs as a result of the project cost, then the emergency project is exempt from the requirement to obtain a certificate of public convenience and necessity under section eleven, article two, chapter twenty-four of this code. If the public utility is a public service district, it is exempt from the approval of the public service commission required under section twenty-five, article thirteen-a, chapter sixteen of this code.

(b) Any public utility, and any other entity that will operate as a public utility, must obtain a certificate of public convenience and necessity pursuant to section eleven, article two, chapter twenty-four of this code for any emergency project that is not exempt under subsection (a) of this section. The public service commission shall render its final decision on any application for a certificate within one hundred twenty days of the filing of the application: Provided, That the thirty-day prefiling requirement is not required. If the project sponsor is a public service district, then the project will be exempted from the approval requirements of section twenty-five, article thirteen-a, chapter sixteen of this code.

(c) Projects that are not emergency projects are subject to the requirements of section eleven, article two, chapter twenty-four of this code to the extent they would be otherwise.

(d) The North Fork Hughes River watershed project, proposed to enhance economic growth and development through tourism as provided in subsection(l), section two of this article and to include a water facility project as defined in subsection(n), section two of this article, is hereby specifically exempted from any requirement imposed by this article, except that the provisions of subsection (a) of this section are specifically made applicable to the project. The project is hereby specifically authorized and the public land corporation shall have and may exercise the power of eminent domain and all authority otherwise prescribed by law to acquire
necessary land and rights-of-way, to include approximately four hundred seventy-eight acres, in connection with the project. Funding for the project shall be provided by the federal government from the Appalachian regional commission through the United States soil conservation service. Upon completion of the project, the property acquired shall be transferred to the state park system. The commissioner of the division of tourism and parks or the successor to the commissioner's powers and duties is directed to expand the boundaries of North Bend state park to include the project area and to operate the expanded park property, including improved recreational facilities, from funds appropriated for that purpose.

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

(a) To further accomplish the purpose and intent of this article, the water development authority shall use the moneys in the infrastructure fund created pursuant to section nine of this article, upon receipt of one or more recommendations from the council pursuant to section five of this article, to make loans, with or without interest, loan guarantees or grants and to provide other assistance, financial, technical or otherwise, to finance all or part of the costs of infrastructure projects or projects to be undertaken by a project sponsor: Provided, That any moneys disbursed from the infrastructure fund in the form of grants shall not exceed twenty percent of the total funds available for the funding of projects. No loan, loan guarantee, grant or other assistance shall be made or provided except upon a determination by the council that the loan, loan guarantee, grant or other assistance and the manner in which it will be provided are necessary or appropriate to accomplish the purposes and intent of this article, based upon an application submitted to the council: Provided, however, That no grant shall be made to a project sponsor that is not a governmental agency or a not for profit corporation under the provisions of section 501(c) of the Internal Revenue Code of 1986, as amended. Applications for loans, loan guarantees, grants
or other assistance may be submitted by a project sponsor for one or more infrastructure projects on preliminary application forms prepared by the council pursuant to section four of this article. Any recommendation of the council approving a loan, loan guarantee, grant or other assistance shall include a finding and determination by the council that the requirements of this section have been met. The council shall base any decisions to loan money for projects to project sponsors pursuant to this article solely on the need of the project sponsors.

(b) The council has the authority in its sole discretion to make grants to project sponsors if it finds that: (1) The level of rates for the users would otherwise be an unreasonable burden given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents funding of the project except through grants: Provided, That no project sponsor shall receive infrastructure grant money in an amount in excess of fifty percent of the total cost of the project. Therefore, the council may consider the economic or financial conditions of the area to be served. As a condition for receipt of a grant under this subsection, the council may require, in addition to any other conditions, that the applicant pursue other state or federal grant or loan programs. Upon a recommendation by the council, the water development authority shall provide the grant in accordance with the recommendation. The council shall develop criteria to be considered in making grants to project sponsors which shall require consideration of the economic or financial conditions of the area to be served and the availability of other funding sources. The council shall adopt procedural rules regarding the manner in which grants will be awarded in conformity with this section. The procedural rules shall be adopted pursuant to article three, chapter twenty-nine-a of this code.

(c) Notwithstanding any other provision of this article to the contrary, the council shall apply a mandatory minimum end user utility rate that must be met by the project sponsor before funding assistance may be awarded. The mandatory minimum end utility rate shall be based upon a uniform statewide percentage of the
median household income in a particular geographic area
and said rate shall not exceed six tenths of one percent:
Provided, That funding assistance made from the
proceeds of any general obligation bonds and revenue
bonds issued after the fifteenth day of March, one
thousand nine hundred ninety-eight, after transfers
required to make the state match for the water and
wastewater revolving loan programs pursuant to article
two, chapter twenty-two-c and article thirteen-c, chapter
sixteen of this code, shall be provided by the council on a
pro rata basis divided equally among the congressional
districts of this state as delineated in accordance with
section three, article two, chapter one of this code:
Provided, however, That infrastructure projects as defined
in subsection (1), section two of this article shall not be
subject to pro rata distribution. When determining median
household income of a geographic area of the project to
be served, the council shall consider any surveys of the
income of the households that will be served by the
project.

(d) No loan or grant funds may be made available for
a project if the project to be funded will provide
subsidized services to certain users in the service area of
the project.

(e) Notwithstanding any other provision of this article
to the contrary, engineering studies and requirements
imposed by the council for preliminary applications shall
not exceed those engineering studies and requirements
which are necessary for the council to determine the
economic feasibility of the project. If the council
determines that the engineering studies and requirements
for the pre-application would impose an undue hardship
on any project sponsor, the council may provide funding
assistance to project sponsors to defray the expenses of the
pre-application process from moneys available in the
infrastructure fund for making loans: Provided, That the
council may only provide funding assistance in an amount
equal to five thousand dollars or fifty percent of the total
preapplication cost of the project, whichever amount is
greater. If the project is ultimately approved for a loan by
the council, the amount of funding assistance provided to
the project sponsor for the pre-application process shall be included in the total amount of the loan to be repaid by the project sponsor. If the project is not ultimately approved by the council, then the amount of funding assistance provided to the project sponsor will be considered a grant by the council and the total amount of the assistance shall be forgiven. In no event may the amount of funding assistance provided to all project sponsors exceed, in the aggregate, one hundred thousand dollars annually.

(f) The council shall report to the governor, the speaker of the House of Delegates and the president of the Senate during each regular and interim session of the Legislature, on its activities and decisions relating to distribution or planned distribution of grants and loans under the criteria to be developed pursuant to this article.


Eighty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for the cost of projects as defined in subsection(n), section two of this article. Twenty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection(i), section two of this article. Project sponsors of infrastructure projects shall follow the application process as established by this article: Provided, That notwithstanding any provision of this article to the contrary, all applications for any infrastructure project shall be submitted to the council for community and economic development, or its successor, for review, recommendation and approval regarding infrastructure project funding.

§31-15A-13. Prohibition on funds inuring to the benefit of or being distributable to water development board; transactions between the water development board and officers having certain interests in such transactions.
No part of the infrastructure fund or the West Virginia infrastructure revenue debt service fund shall inure to the benefit of or be distributable to the water development board directors or officers of the water development authority except that the water development authority is authorized and empowered to pay reasonable compensation, other than to members of the water development board, including the chairman, vice chairman, secretary-treasurer for services rendered and to make loans and exercise its other powers as previously specified in furtherance of its corporate purpose:

Provided, That no loans shall be made, and no property shall be purchased or leased from, or sold, leased or otherwise disposed of, to any water development board member or officer of the water development authority.


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

(b) Notwithstanding any other provision of this code to the contrary, beginning on the first day of July, one thousand nine hundred ninety-five, the first sixteen million dollars of the tax collected pursuant to article thirteen-a, chapter eleven of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three, article fifteen-b of this chapter: Provided, That beginning on the first day of July, one thousand nine hundred ninety-eight, the first twenty-four million dollars of the tax annually collected pursuant to article thirteen-a of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three, article fifteen-b of this chapter.
(c) Notwithstanding any provision of subsection (b) of this section to the contrary: (1) none of the collections from the tax imposed pursuant to section six, article thirteen-a, chapter eleven of this code shall be so dedicated or deposited; and (2) the portion of the tax imposed by article thirteen-a, chapter eleven and dedicated for purposes of medicaid and the division of forestry pursuant to section twenty-a of said article thirteen-a shall remain dedicated for the purposes set forth in said section twenty-a.

(d) On or before the first day of May of each year, commencing the first day of May, one thousand nine hundred ninety-five, the council, by resolution, shall certify to the treasurer and the water development authority the principal and interest coverage ratio and amount for the following fiscal year on any infrastructure general obligation bonds issued pursuant to the provisions of article fifteen-b of this chapter.

§31-15A-17. Water development authority empowered to issue infrastructure revenue bonds and refunding bonds; creation of infrastructure revenue debt service fund; funding of infrastructure revenue debt service fund; requirements and manner of such issuance.

(a) To accomplish the purpose and intent of this article, the water development authority is hereby empowered at the written request of the council to issue from time to time infrastructure revenue bonds of the state in such principal amounts as the council deems necessary to make loans and loan guarantees and other forms of financial assistance to project sponsors for one or more projects or infrastructure projects: Provided, That the water development authority may not issue any such bonds, other than refunding bonds, unless the council by resolution determines that the aggregate cost of the projects or infrastructure projects expected to be constructed during any annual period exceeds (1) the projected annual infrastructure revenues for the same period, and (2) the principal and interest payments not otherwise pledged to the infrastructure revenue debt
service fund that are due the water development authority on all outstanding loans previously made by the water development authority pursuant to the provisions of this article.

(b) The proceeds of infrastructure revenue bonds shall be used solely for the purpose of making loans and loan guarantees and other forms of financial assistance to sponsors of one or more projects or infrastructure projects, and shall be deposited in one or more special accounts with the trustee under the trust agreement securing such bonds and disbursed from time to time for projects or infrastructure projects in accordance with this article: Provided, That notwithstanding any provision of this code to the contrary, twenty percent of the funds deposited in the special account shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (l), section two of this article.

(c) The water development authority may not authorize the disbursement of any proceeds of infrastructure revenue bonds unless it has received documentation from the council pursuant to the provisions of section ten of this article.

(d) There is hereby created in the water development authority a special fund which shall be designated and known as the "West Virginia Infrastructure Revenue Debt Service Fund," into which shall be transferred solely from the loan repayments deposited in the infrastructure fund the amounts certified by the director of the water development authority as necessary to pay the principal, premium, if any, and interest on infrastructure revenue bonds and any reserve requirements, subject to the terms of any agreement with the holders of the infrastructure revenue bonds. All amounts deposited in the West Virginia infrastructure revenue debt service fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any infrastructure revenue bonds authorized by this article: Provided, That amounts on deposit in the fund may be used to establish or maintain reserves created for the purposes of securing
such infrastructure revenue bonds. The pledge shall be valid and binding from the time the pledge is made, and the West Virginia infrastructure revenue debt service fund so pledged shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the water development authority irrespective of whether the parties have notice thereof.

(e) Except as may otherwise be expressly provided in this article or by resolution of the water development authority, every issue of infrastructure revenue bonds shall be special obligations of the water development authority payable solely from amounts in the West Virginia infrastructure revenue debt service fund, and the reserves created for this purpose by the water development authority, without preference or priority among the bonds regardless of when issued, subject only to any agreements with the holders of any bonds to the contrary. All such bonds are hereby declared to be negotiable instruments.

(f) Infrastructure revenue bonds shall be authorized by resolution of the water development authority. These bonds shall bear such dates and shall mature at such times, in case of any note or renewal thereof not exceeding five years from the date of issue of the original note, and in the case of any bond not exceeding fifty years from the date of issue, as the resolution may provide. Infrastructure revenue bonds shall bear interest at a rate or rates, including variable rates, shall be taxable or tax-exempt, shall be in the denominations, shall be in registered form, shall carry the registration privileges, shall be payable in the medium and place of payment, and shall be subject to the terms of redemption as the water development authority may authorize. Infrastructure revenue bonds may be sold by the water development authority at public or private sale at the price the water development authority determines in consultation with the council. Infrastructure revenue bonds shall be executed by the chairman and the vice chairman of the water development authority, either or both of whom may use a
facsimile signature. The official seal of the water
development authority or a facsimile thereof shall be
affixed thereto or printed thereon and attested by manual
or facsimile signature by the secretary-treasurer of the
water development authority. If any officer whose
signature, or a facsimile of whose signature appears on
any infrastructure revenue bond ceases to be such officer
before delivery of such bond, such signature or facsimile
is nevertheless sufficient for all purposes to the same
extent as if he or she had remained in office until such
delivery, and if the seal of the water development authority
has been changed after a facsimile has been imprinted on
such bond, the facsimile will continue to be sufficient for
all purposes.

(g) Any resolution authorizing any infrastructure
revenue bonds may contain provisions, subject to any
agreement with bondholders or noteholders which may
then exist, which agreements shall be part of the contract
with the holder thereof, with respect to the pledge of or
other use and disposition of amounts in the infrastructure
revenue debt service fund; the setting aside of reserve
funds; the disposition of any assets of the water
development authority; limitations on the purpose to
which the proceeds of sale of bonds may be applied; the
authorization of notes issued in anticipation of the
issuance of bonds; an agreement of the water development
authority to do all things necessary for the authorization,
issuance and sale of such bonds in such amounts as may
be necessary for the timely retirement of such notes;
limitations on the issuance of additional bonds; the terms
upon which additional bonds may be issued and secured;
the refunding of outstanding bonds and the renewal of
outstanding notes; the procedures, if any, by which the
terms of any contract with bondholders or noteholders
may be amended or abrogated; the amount of bonds the
holders of which must consent thereto and the manner in
which such consent may be given; and any other matter
which in any way affects the security for or protection of
the bonds.

(h) In the event that the sum of all reserves pledged to
the payment of the bonds is less than the minimum reserve
requirements established in any resolution or resolutions
authorizing the issuance of the bonds, the chairman or the
director of the water development authority shall certify,
on or before the first day of December of each year, the
amount of such deficiency to the governor of the state for
inclusion, if the governor shall so elect, of the amount of
such deficiency in the budget to be submitted to the next
session of the Legislature for appropriation to the water
development authority to be pledged for payment of such
bonds: *Provided,* That the Legislature shall not be
required to make any appropriations so requested, and the
amount of such deficiencies shall not constitute a debt or
liability of the state.

(i) Neither the officers or board members of the water
development authority, nor any person executing the
infrastructure revenue bonds, shall be liable personally on
the bonds or be subject to any personal liability or
accountability by reason of the issuance thereof.

§31-15A-18. Trustee for holders of infrastructure revenue
bonds; contents of trust agreement.

(a) Any infrastructure revenue bonds issued by the
water development authority under this article shall be
secured by a trust agreement between the water
development authority and a corporate trustee, which
trustee may be any trust company or banking institution
having the powers of a trust company within this state.

(b) Any trust agreement may pledge or assign the
infrastructure revenue debt service fund. Any trust
agreement or any resolution providing for the issuance of
such bonds may contain such provisions for protecting
and enforcing the rights and remedies of the bondholders
or noteholders as are reasonable and proper and not in
violation of law, including the provisions contained in
section seventeen of this article, and covenants setting
forth the duties of the water development authority in
respect to the payment of the principal of and interest,
charges and fees on loans made to, or bond purchases
from, governmental agencies from the proceeds of the
bonds, and the custody, safeguarding and application of
all moneys. Any banking institution or trust company
incorporated under the laws of this state which may act as
depository of the proceeds of bonds or of the
infrastructure debt service fund shall furnish such
indemnifying bonds or pledge securities as are required
by the water development authority. The trust agreement
may set forth the rights and remedies of the bondholders
and noteholders and of the trustee and may restrict
individual rights of action by bondholders and
noteholders as customarily provided in trust agreements or
trust indentures securing similar bonds and notes. The
trust agreement may contain such other provisions as the
water development authority deems reasonable and proper
for the security of the bondholders or noteholders. All
expenses incurred in carrying out the provisions of any
such trust agreement may be treated as part of the cost of
the construction, renovation, repair, improvement or
acquisition of a project or infrastructure project.

§31-15A-19. Legal remedies of infrastructure revenue
bondholders or noteholders and trustees.

Any holder of infrastructure revenue bonds issued
pursuant to this article and the trustee under any trust
agreement, except to the extent the rights given by this
article may be restricted by the applicable resolution or
trust agreement, may by civil action, mandamus or other
proceedings protect and enforce any rights granted under
the laws of this state or granted under this article, by the
trust agreement or by the resolution in the issuance of the
bonds, and may enforce and compel the performance of
all duties required by this article, pursuant to the trust
agreement or resolution, to be performed by the water
development authority or any officer thereof.


All infrastructure revenue bonds issued pursuant to
this article shall be lawful investments for banking
institutions, societies for savings, building and loan
associations, savings and loan associations, deposit
guarantee associations, trust companies, and insurance
companies, including domestic for life and domestic not
for life insurance companies.

(a) The water development authority, subject to such agreements with noteholders or bondholders as may then exist, shall have the power, from any funds available therefor, to purchase or redeem infrastructure revenue bonds of the water development authority.

(b) If the infrastructure revenue bonds are then redeemable, the price of the purchase shall not exceed the redemption price then applicable, plus accrued interest to the next interest payment date thereon. If the infrastructure revenue bonds are not then redeemable, the price of the purchase shall not exceed the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption, plus accrued interest to such date. Upon purchase or redemption, the bonds shall be canceled.


Any infrastructure revenue bonds issued pursuant to the provisions of this article and at any time outstanding may at any time and from time to time be refunded by the water development authority by the issuance of its refunding revenue bonds in an amount it deems necessary to refund the principal of the bonds to be refunded, together with any unpaid interest thereon, to provide additional funds for the water development authority to accomplish the purpose of this article, and to pay any premiums and commissions necessary to be paid in connection therewith. Any refunding may be effected whether the infrastructure revenue bonds to be refunded shall have then matured or shall thereafter mature: Provided, That the holders of any infrastructure revenue bonds so to be refunded shall not be compelled without their consent to surrender their infrastructure revenue bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding revenue bonds issued pursuant to this article shall be payable from the West Virginia infrastructure revenue debt service fund, and shall
be subject to the provisions contained in section seventeen
of this article, and shall be secured in accordance with the
provisions of sections seventeen and eighteen of this
article.

§31-15A-23. Infrastructure revenue bonds not debt of state,
    county, municipality or any political
    subdivision.

Infrastructure revenue bonds issued pursuant to the
provisions of this article shall not constitute a debt or a
pledge of the faith and credit or taxing power of this state
or of any county, municipality or any other political
subdivision of this state. The holders or owners thereof
shall have no right to have taxes levied by the Legislature
or the taxing authority of any county, municipality or any
other political subdivision of this state for the payment of
the principal thereof or interest thereon. The bonds shall
be payable solely from the revenues and funds pledged
for their payment as authorized by this article. All such
bonds shall contain on the face thereof a statement to the
effect that the bonds, as to both principal and interest, are
not debts of the state or any county, municipality or
political subdivision thereof, but are payable solely from
revenues and funds pledged for their payment.

§31-15A-24. Infrastructure revenue bonds exempt from
taxation.

The exercise of the powers granted to the water
development authority by this article will be in all respects
for the benefit of the people of the state, for the
improvement of their health, safety, convenience and
welfare and for the enhancement of their residential,
agricultural, recreational, economic, commercial and
industrial opportunities and is for a public purpose. As
the construction, acquisition, repair or renovation of
projects or infrastructure projects will constitute the
performance of essential governmental functions, the
water development authority shall not be required to pay
any taxes or assessments upon any project or upon any
property acquired or used by the water development
authority or upon the income therefrom. The
infrastructure revenue bonds and all interest and income
ARTICLE 15B. INFRASTRUCTURE BONDS.

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

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

These bonds may be issued by the governor upon resolution by the infrastructure council and certification to the governor. The bonds shall bear such date and mature at such time, bear interest at such rate not to exceed eight percent per annum, be in such amounts, be in such denominations, be in such registered form, carry such registration privileges, be due and payable at such time and place and in such amounts, and subject to such terms of redemption as such resolution may provide: Provided, That in no event may the amount of bonds outstanding exceed an amount for which twenty-four million dollars would not be sufficient to provide annual service on the total amount of debt outstanding.

Both the principal and interest of the bonds shall be payable in the lawful money of the United States of America and the bonds and the interest thereon shall be exempt from taxation by the state of West Virginia, or by any county, district or municipality thereof, which fact shall appear on the face of the bonds as part of the contract with the holder of the bond.

The bonds shall be executed on behalf of the state of West Virginia, by the manual or facsimile signature of the
treasurer thereof, under the great seal of the state or a facsimile thereof, and countersigned by the manual or facsimile signature of the auditor of the state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within approved this the ______th day of ______, 1998.

[Signature]
Governor
PRESENTED TO THE
GOVERNOR
Date 4/6/98
Time 12:33 am