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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 2877

(By Delegates Staton, Amores,
Trump, Fletcher and Browning)

Passed April 14, 2001

In Effect Ninety Days from Passage

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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H. B. 2877

(BY DELEGATES STATON, AMORES,
TRUMP, FLETCHER AND BROWNING)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, five, eighteen, and twenty-one, article sixteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one-a, one-b, two, three, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fifteen, sixteen, seventeen and eighteen, article twenty of said chapter; to further amend said article by adding thereto two new sections, designated sections one-c and eleven-a; to amend and reenact sections one, two, three, nine, sixteen, seventeen, eighteen, nineteen, twenty-two, twenty-two-f, twenty-two-g and twenty-three-a, article thirteen, chapter sixteen of said code; all relating to establishment of stormwater systems within municipalities; municipal public works, stormwater systems and associated stormwater management programs, rates, fees and charges for stormwater services, termination of water service for combined systems for nonpayment of stormwater services, governmental entities subject to established rates, fees and charges for stormwater services, extraterritorial jurisdiction of municipalities, combined waterworks, sewerage and stormwater systems, acquisition thereof, extraterritorial powers, severance of combined systems, right of eminent

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domain, criteria for ordinance for combined system, bonds, revenue payable for bonds; liens of bondholders; power of municipalities to fix rates, fees and charges; "sinking funds," protection and enforcement of rights of bondholders, grants, loans and advances; alternative method for acquisition of combined system; acquisition and operation of stormwater works by sanitary boards or sanitary district, powers of sanitary board expanded to include stormwater works; rates, charges and fees for stormwater services; exception of bonds for stormwater works from taxation.

Be it enacted by the Legislature of West Virginia:

That sections one, five, eighteen, twenty-one, article sixteen, chapter eight be amended and reenacted; that sections one-a, one-b, two, three, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fifteen, sixteen, seventeen and eighteen, article twenty of said chapter be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections one-c and eleven-a; and that sections one, two, three, nine, sixteen, seventeen, eighteen, nineteen, twenty-two, twenty-two-f, twenty-two-g and twenty-three-a, article thirteen, chapter sixteen be amended and reenacted; all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.

PART I. DEFINITIONS; AUTHORIZATION OF MUNICIPAL PUBLIC WORKS.

§8-16-1. Definitions.

1 As used in this article, the following terms shall have the
2 following meanings unless the text clearly indicates otherwise.

3 (a) "Municipal public works" or "works" or "projects"
4 means the construction, reconstruction, establishment, acquisi-
5 tion, improvement, renovation, extension, enlargement, in-
6 crease, equipment, maintenance, repair (including replace-

7 ments) and operation of jails, jail facilities, municipal buildings,
8 police stations, fire stations, libraries, museums, other public
9 buildings, incinerator plants, land fill or other garbage disposal
10 systems, hospitals, piers, docks, terminals, airports, drainage
11 systems, flood control systems, stormwater systems and associ-
12 ated stormwater management program, flood walls, culverts,
13 bridges (including approaches, causeways, viaducts, under-
14 passes and connecting roadways), public markets, cemeteries,
15 motor vehicle parking facilities (including parking lots, build-
16 ings, ramps, curb-line parking, meters and other facilities con-
17 sidered necessary, appropriate, useful, convenient or incidental
18 to the regulation, control and parking of motor vehicles), farms,
19 dormitories, apartments and other housing facilities for the
20 students and faculties of institutions of higher education; facili-
21 ties providing housing for the elderly, including, but not limited
22 to, life care facilities, congregate living facilities and adult resi-
23 dential facilities, stadiums, gymnasiums, sports arenas, auditori-
24 ums, public recreation centers, public recreation parks, swim-
25 ming pools, roller skating rinks, ice skating rinks, tennis courts,
26 golf courses, polo grounds, or the grading, regrading, paving,
27 repaving, surfacing, resurfacing, curbing, recurbing, widening
28 or otherwise improving of any street, avenue, road, alley or
29 way, or the building or renewing of sidewalks, where works or
30 projects will be made self-supporting, and the cost thereof,
31 together with the interest thereon, will be returned within a
32 reasonable period, not exceeding forty years, by means of tolls,
33 fees, rents, special assessments or charges other than taxation;
34 and the terms shall also mean any works or project as a whole,
35 and all integral parts thereof, including all necessary, appropri-
36 ate, useful, convenient or incidental appurtenances and equip-
37 ment in connection with any one or more of the above.

38 (b) "Stormwater systems" means a stormwater system in its
39 entirety or any integral part thereof used to collect and dispose
40 of stormwater and an associated stormwater management pro-
41 gram. It includes all facilities, structures and natural water
42 courses used for collecting and conducting stormwater to,
43 through and from drainage areas to the points of final outlet

44 including, but not limited to, any and all of the following: Inlets,
45 conduits, outlets, channels, ponds, drainage easements, water
46 quality facilities, catch basins, ditches, streams, gulches, flumes,
47 culverts, siphons, retention or detention basins, dams,
48 floodwalls, pipes, flood control systems, levies and pumping
49 stations. The term "stormwater systems" shall not include high-
50 ways, road and drainage easements, and/or stormwater facilities
51 constructed, owned and/or operated by the West Virginia Divi-
52 sion of Highways.

53 (c) "Stormwater management program" means those activi-
54 ties associated with the management, operation, maintenance
55 and control of stormwater and stormwater systems, and shall
56 include, but not be limited to, public education, stormwater and
57 surface runoff water quality improvement, mapping, planning,
58 flood control, inspection, enforcement and any other activities
59 required by state and federal law. The term "stormwater man-
60 agement program" shall not include those activities associated
61 with the management, operation, maintenance and control of
62 highways, road and drainage easements, and/or stormwater
63 facilities constructed, owned and/or operated by the West Vir-
64 ginia Division of Highways without the express agreement of
65 the commissioner of highways.

PART III. GENERAL POWERS AND AUTHORITY.

§8-16-5. Powers of board.

1 The board shall have plenary power and authority to take
2 all steps and proceedings, and to make and enter into all con-
3 tracts or agreements necessary, appropriate, useful, convenient
4 or incidental to the performance of its duties and the execution
5 of its powers and authority under this article: *Provided*, That
6 any contract or agreement relating to the financing, or the con-
7 struction, reconstruction, establishment, acquisition, improve-
8 ment, renovation, extension, enlargement, increase, equipment,
9 operation or maintenance of any such works, and any trust in-
10 denture with respect thereto as hereafter provided for, shall be
11 approved by the governing body or bodies.

12 The board may employ engineers, architects, inspectors,
13 superintendents, managers, collectors, attorneys and such other
14 employees as in its judgment may be necessary in the execution
15 of its powers and duties, and may fix their compensation, all of
16 whom shall do such work as the board may direct. All compen-
17 sation and expenses incurred in carrying out the provisions of
18 this article shall be paid solely from funds provided under the
19 authority of this article, and the board shall not exercise or carry
20 out any power or authority herein given it so as to bind said
21 board or any municipality beyond the extent to which money
22 shall have been, or may be provided under the authority of this
23 article.

24 No contract or agreement with any contractor or contractors
25 for labor or materials, or both, exceeding in amount the sum of
26 ten thousand dollars shall be made without advertising for bids,
27 which bids shall be publicly opened and an award made to the
28 lowest responsible bidder, with power and authority in the
29 board to reject any and all bids.

30 After the construction, reconstruction, establishment, acqui-
31 sition, renovation or equipment of any such works, the board
32 shall maintain, operate, manage and control the same, and may
33 order and complete any improvements, extensions, enlarge-
34 ments, increase or repair (including replacements) of and to the
35 works that the board may considered expedient, if funds there-
36 for be available, or are made available, as provided in this arti-
37 cle, and shall establish rules for the use, maintenance and opera-
38 tion of the works, and do all things necessary or expedient for
39 the successful operation thereof, and for stormwater systems
40 and associated stormwater management programs, those activi-
41 ties which include, but are not limited to, stormwater and sur-
42 face runoff water quality improvement activities necessary to
43 comply with all federal and state requirements. All public ways
44 or public works damaged or destroyed by the board in carrying
45 out its authority under this article shall be restored or repaired
46 by the board and placed in their original condition, as nearly as

47 practicable, if requested so to do by proper authority, out of the
48 funds provided under the authority of this article.

PART VI. IMPOSITION OF RATES, FEES OR CHARGES.

§8-16-18. Rates, fees or charges for services rendered by works.

1 The governing body shall have plenary power and authority
2 and it shall be its duty, by ordinance, to establish and maintain
3 just and equitable rates, fees or charges for the use and services
4 rendered, or the improvement or protection of property, not to
5 include highways, road and drainage easements, and/or storm-
6 water facilities constructed, owned and/or operated by the West
7 Virginia Division of Highways, provided or afforded, by such
8 works, to be paid by the person using the same, receiving the
9 services thereof, or owning the property improved or protected
10 thereby, and may readjust rates, fees or charges from time to
11 time.

12 When two or more municipalities take joint action under
13 the provisions of this article, the rates, fees or charges shall be
14 established by each participating municipality, with the concur-
15 rence of the other participating municipality or municipalities as
16 to the amount of the rates, fees or charges, and such rates, fees
17 or charges may be the same with respect to each municipality,
18 or they may be different.

19 Rates, fees or charges heretofore or hereafter established
20 and maintained for the improvement or protection of property,
21 not to include highways, road and drainage easements, and/or
22 stormwater facilities constructed, owned and/or operated by the
23 West Virginia Division of Highways, provided or afforded by a
24 municipal flood control system or flood walls, to be paid by the
25 person owning the property improved or protected thereby,
26 shall be collectible and enforceable from the time provided in
27 any such ordinance, any provision of this or any other law to the
28 contrary notwithstanding, if, at such time, such works, though
29 not yet fully completed, are nearing completion and the govern-

30 ing body is reasonably assured that the works will be completed
31 and placed in operation without unreasonable delay.

32 All rates, fees or charges shall be sufficient in each year for
33 the payment of the proper and reasonable expenses of repair
34 (including replacements), maintenance and operation of the
35 works, and for the payment of the sums herein required to be
36 paid into the sinking fund. Revenues collected pursuant to the
37 provisions of this section are considered the revenues of the
38 works. No such rates, fees or charges shall be established until
39 after a public hearing at which all the users of the works and
40 owners of the property served, or to be served thereby, and
41 others interested, shall have an opportunity to be heard concern-
42 ing the proposed rates, fees or charges.

43 After introduction of the proposed ordinance fixing the
44 rates, fees or charges and before the same is finally adopted,
45 notice of such hearing, setting forth the proposed schedule of
46 such rates, fees or charges, shall be given by publishing the
47 same as a Class I-0 legal advertisement in compliance with the
48 provisions of article three, chapter fifty-nine of this code, and
49 the publication area for the publication shall be such municipal-
50 ity or each such municipality, as the case may be. Said notice
51 shall be published at least five days before the date fixed in such
52 notice for the hearing, which hearing may be adjourned from
53 time to time. No other or further notice to parties in interest
54 shall be required.

55 After such hearing the ordinance establishing rates, fees or
56 charges, either as originally proposed or introduced, or as modi-
57 fied and amended, shall be adopted and put into effect. A copy
58 of the schedule of such rates, fees and charges so established
59 shall be kept on file in the office of the board having charge of
60 such works, and also in the office of the governing body or
61 bodies, and shall be open to inspection by all parties in interest.

62 The rates, fees or charges so established for any class of
63 users or property served shall be extended to cover any addi-
64 tional class of users or property thereafter served which fall

65 within the same class, without the necessity of any hearing or
66 notice. Any change or adjustment of rates, fees or charges may
67 be made in the same manner as such rates, fees or charges were
68 originally established as provided in this section. The aggregate
69 of the rates, fees or charges shall always be sufficient for the
70 expenses of repair (including replacements), maintenance and
71 operation, and for the sinking fund payments.

72 If any rate, fee or charge so established shall not be paid
73 within thirty days after the same is due, the amount thereof,
74 together with a penalty of ten percent and reasonable attorney's
75 fees, may be recovered by the board in a civil action in the
76 name of the municipality or municipalities, and in the case of
77 rates, fees or charges due for services rendered, such rates, fees
78 or charges, if not paid when due, may, if the governing body so
79 provide in the ordinance provided for under section seven of
80 this article, constitute a lien upon the premises served by such
81 works, which lien may be foreclosed against such lot, parcel of
82 land or building so served, in accordance with the laws relating
83 to the foreclosure of liens on real property. Upon failure of any
84 person receiving any such service to pay for the same when
85 due, the board may discontinue such service without notice.

PART VIII. RATES, FEES OR CHARGES FOR MUNICIPALITIES.

§8-16-21. Governmental entities to pay established rates, fees or charges for services rendered to it or them.

1 (a) The municipality or municipalities issuing such bonds
2 shall be subject to the same rates, fees or charges established as
3 provided in this article, or to rates, fees or charges established in
4 harmony therewith, for service rendered to the municipality or
5 municipalities and shall pay such rates, fees or charges, when
6 due, from corporate funds, and the same shall be considered to
7 be a part of the revenues of the works as defined in this article,
8 and may be applied as provided in this article, for the applica-
9 tion of such revenue.

10 (b) The municipality or municipalities and any county, state
11 and federal government served by the services of the storm-
12 water system shall be subject to the same rates, fees or charges
13 established as provided in this article for stormwater services, or
14 to rates, fees or charges established in harmony therewith, for
15 service rendered to the governmental entity and shall pay such
16 rates, fees or charges, when due, from corporate funds, and the
17 same is considered to be a part of the revenues of the works as
18 defined in this article, and may be applied as provided in this
19 article, for the application of such revenue. However, no rates,
20 fees or charges for stormwater services may be assessed against
21 highways, road and drainage easements, and/or stormwater
22 facilities constructed, owned and/or operated by the West Vir-
23 ginia Division of Highways without the express agreement of
24 the commissioner of highways.

ARTICLE 20. COMBINED SYSTEMS.

§8-20-1a. Acquisition and operation of combined systems; extension beyond corporate limits; definitions.

1 (a) Any municipality may acquire, construct, establish and
2 equip and thereafter repair, maintain and operate a combined
3 waterworks, sewerage and stormwater system either wholly
4 within or partly within and partly without the corporate limits
5 thereof under the provisions of this article, and any municipality
6 owning and operating a waterworks and sewerage system, but
7 not a stormwater system, may acquire, construct, establish and
8 equip the stormwater system which it does not then own and
9 operate, and such municipality may provide by ordinance that
10 when such stormwater system shall have been acquired, con-
11 structed, established and equipped, the same shall thereafter be
12 owned, repaired, maintained and operated as a combined under-
13 taking under the provisions of this article, and any municipality
14 already owning and operating an existing waterworks system,
15 sewerage system, and stormwater system, may by ordinance
16 combine the same into a single undertaking under the provi-
17 sions of this article. However, no municipality may acquire,
18 construct, establish and equip or thereafter repair, maintain and

19 operate a combined waterworks, sewerage and stormwater
20 system which includes highways, road and drainage easements,
21 and/or stormwater facilities constructed, owned and/or operated
22 by the West Virginia Division of Highways without the express
23 agreement of the commissioner of highways.

24 (b) Any municipality which has combined its waterworks,
25 sewerage system and stormwater systems under the provisions
26 of this article, or pursuant to the provisions of any other law,
27 may hereafter construct extensions, additions, betterments and
28 improvements to any of the systems, any combination thereof,
29 or all of the waterworks, sewerage and stormwater systems of
30 said combined waterworks, sewerage and stormwater system,
31 and may finance the acquisition, construction, establishment
32 and equipment thereof, or the construction or extensions, addi-
33 tions, betterments and improvements thereof by the issuance of
34 revenue bonds under the provisions of this article.

35 (c) Notwithstanding the provisions of any other law or
36 charter to the contrary, any such municipality may serve and
37 supply the area included within twenty miles outside its corpo-
38 rate limits with either the water, sewer or stormwater services,
39 any combination of such services or all such services, of its
40 combined waterworks, sewerage and stormwater system; pro-
41 vided that such water, sewer or stormwater services and facili-
42 ties shall not be served or supplied within the corporate limits of
43 any municipality without the consent of the governing body of
44 such municipality: *Provided*, That for stormwater systems,
45 within the twenty miles beyond the municipality's corporate
46 limits the only areas the municipality may serve and supply
47 shall be those areas from which stormwater affects or drains
48 into the municipality.

49 (d) As used in this article, the following terms shall have
50 the following meanings unless the text clearly indicates other-
51 wise.

52 (1) "Stormwater system" means a stormwater system in its
53 entirety or any integral part thereof used to collect and dispose

54 of stormwater and an associated stormwater management pro-
55 gram. It includes all facilities, structures and natural water
56 courses used for collecting and conducting stormwater to,
57 through and from drainage areas to the points of final outlet,
58 including, but not limited to, any and all of the following: Inlets,
59 conduits, outlets, channels, ponds, drainage ways, easements,
60 water quality facilities, catch basins, ditches, streams, gulches,
61 flumes, culverts, siphons, retention or detention basins, dams,
62 floodwalls, pipes, flood control systems, levies and pumping
63 stations. The term "stormwater system" shall not include high-
64 ways, road and drainage easements, and/or stormwater facilities
65 constructed, owned and/or operated by the West Virginia Divi-
66 sion of Highways.

67 (2) "Combined waterworks, sewerage and stormwater sys-
68 tem" means a waterworks, sewerage and stormwater system
69 which a municipality determines by ordinance to operate in
70 combination.

71 (3) "Combined system" means either a combined water-
72 works, sewerage and stormwater system, or a combined water-
73 works and sewerage system.

74 (4) "Stormwater management program" means those activi-
75 ties associated with the management, operation and mainte-
76 nance and control of stormwater and stormwater systems, and
77 shall include and not be limited to public education, stormwater
78 and surface runoff water quality improvement, mapping, plan-
79 ning, flood control, inspection, enforcement and any other ac-
80 tivities required by state and federal law. The term "stormwater
81 management program" shall not include those activities associ-
82 ated with the management, operation, maintenance and control
83 of highways, road and drainage easements, and/or stormwater
84 facilities constructed, owned and/or operated by the West Vir-
85 ginia Division of Highways without the express agreement of
86 the commissioner of highways.

§8-20-1b. Cooperation with other governmental units.

1 In carrying out any lawful purpose prescribed by this arti-
2 cle, any municipality may, in the exercise of its powers, duties
3 and responsibilities, cooperate or join with the state of West
4 Virginia or any political subdivision, agency, board, commis-
5 sion, office or department thereof, however designated, or with
6 the United States of America or any agency or department
7 thereof.

§8-20-1c. Severance of combined system.

1 Any municipality which has combined its waterworks and
2 sewerage systems or waterworks, sewerage and stormwater
3 systems, under the provisions of this article, or pursuant to pro-
4 visions of any other law, may hereafter sever said combined
5 system if the following conditions are met:

6 (a) An ordinance is enacted by the governing body of the
7 municipality severing the combined system into separate sys-
8 tems.

9 (b) If revenue bonds or notes or other obligations with a
10 lien on or pledge of the revenues of said combined system, or
11 any part thereof, are outstanding, then the municipality must
12 provide in said ordinance that the severance of the combined
13 system is not effective until all such outstanding revenue bonds
14 or notes or other obligations with a lien on or pledge of the
15 revenues of the system, or any part thereof, are paid and the
16 method for paying said outstanding revenue bonds or notes or
17 other obligations. For the purposes of this section, said munic-
18 ipality may provide for payment of said outstanding revenue
19 bonds or notes or other obligations by:

20 (1) Depositing moneys and funds with the West Virginia
21 municipal bond commission or in escrow with a corporate
22 trustee, which may be a trust company or bank having powers
23 of a trust company within or without the state of West Virginia
24 selected by the issuer to pay interest when due and to pay prin-
25 cipal when due, whether at maturity or earlier redemption;

26 (2) Depositing securities with the municipal bond commis-
27 sion or said escrow trustee, the principal of and earnings on
28 which will provide moneys sufficient to pay interest when due
29 and to pay principal when due, whether at maturity or earlier
30 redemption; or

31 (3) Depositing with the municipal bond commission or said
32 escrow trustee any combination of the foregoing sufficient to
33 pay interest when due and to pay principal when due, whether at
34 maturity or earlier redemption.

35 (c) If the combined system is under the supervision and
36 control of a separate committee, board or commission, then the
37 governing body of the municipality must provide for the disso-
38 lution of the committee, board or commission, and the creation
39 of other committees, boards or commissions as may be required
40 by law.

§8-20-2. Right of eminent domain; limitations.

1 For the purpose of acquiring, constructing, establishing or
2 extending any system within a combined system, or a combined
3 system, or for the purpose of constructing any additions,
4 betterments or improvements to any system within a combined
5 system, or a combined system, or for the purpose of acquiring
6 any property necessary, appropriate, useful, convenient or inci-
7 dental for or to any system within a combined system, or com-
8 bined system, under the provisions of this article, the municipal-
9 ity shall have the right of eminent domain as provided in chap-
10 ter fifty-four of this code: *Provided*, That such right of eminent
11 domain for the acquisition of a complete privately owned water-
12 works system may not be exercised without prior approval of
13 the public service commission, and in no event shall any munic-
14 ipality construct, establish or extend beyond the corporate limits
15 of the municipality a municipal waterworks system or a com-
16 bined system under the provisions of this article to supply ser-
17 vice in competition with an existing privately or municipally
18 owned waterworks system or combined system in the munic-
19 ipality or within the proposed extension of the system, unless,

20 except in the case of a stormwater system, a certificate of public
21 convenience and necessity therefor shall have been issued by
22 the public service commission: Provided, however, that the
23 power of eminent domain provided in this section shall not
24 extend to highways, road and drainage easements, and/or storm-
25 water facilities constructed, owned and/or operated by the West
26 Virginia Division of Highways without the express agreement
27 of the commissioner of highways.

§8-20-3. Ordinance describing project; contents.

1 The governing body of any municipality availing itself of
2 the provisions of this article shall adopt an ordinance describing
3 in a general way the contemplated project. If it is intended to
4 include in the combined system any existing waterworks system
5 or any existing sewerage system, or both, or if applicable, any
6 existing stormwater system, or any of them, or all of them, the
7 ordinance shall provide that it or they be so included in the
8 combined system and shall describe in a general way such exist-
9 ing waterworks or sewerage system or both, or, if applicable,
10 any existing stormwater system, or any of them, or all of them,
11 to be included in the combined system. The ordinance shall
12 state the means provided for refunding any obligations unpaid
13 and outstanding payable solely from the revenues of any such
14 waterworks or sewerage system, or both, or if applicable, any
15 existing stormwater system, or any of them, or all of them. The
16 ordinance shall determine the period of usefulness of the con-
17 templated project.

18 If it is intended to acquire, construct, establish and equip a
19 combined system or any part thereof, or to construct extensions,
20 additions, betterments and improvements to either the water-
21 works system or the sewerage system of the combined system,
22 or both, or if applicable, any existing stormwater system, or any
23 of them, or all of them, the ordinance shall describe in a general
24 way the works or property or system to be acquired, con-
25 structed, established or equipped or the extensions, additions,
26 betterments and improvements to be constructed.

27 The ordinance shall fix the amount of revenue bonds pro-
28 posed to be issued, the interest rate or rates, and any other de-
29 tails in connection with the bonds considered advisable. The
30 ordinance may state that the bonds, or such ones thereof as may
31 be specified, shall, to the extent and in the manner prescribed,
32 be subordinated and be junior in standing, with respect to prin-
33 cipal and interest and the security thereof, to such other bonds
34 as are designated in the ordinance.

**§8-20-5. Amount, negotiability and execution of bonds; refund of
outstanding obligations or securities by sale or ex-
change of bonds.**

1 For the purpose of defraying the cost of acquisition, con-
2 struction, establishment or equipment of any system within a
3 combined system, or a combined system, and for the purpose of
4 paying the cost of constructing any extensions, additions,
5 betterments or improvements to any of the systems of said
6 combined system, or all of them, any such municipality may
7 issue revenue bonds under the provisions of this article.

8 All such bonds may be authorized, issued and sold pursuant
9 to ordinance in installments at different times or an entire issue
10 or series may be sold at one time. Such bonds shall bear interest
11 at a rate not to exceed twelve percent per annum, payable at
12 such times, and shall mature within the period of usefulness of
13 the project involved, to be determined by the governing body
14 and in any event within a period of not more than forty years.
15 The bonds may be in denomination or denominations, may be
16 in such form, either coupon or registered, may carry registration
17 and conversion privileges, may be executed in such manner,
18 may be payable in such medium of payment, at such place or
19 places, may be subject to terms of redemption, with or without a
20 premium, may be declared to become due before the maturity
21 date thereof, may provide for the replacement of mutilated,
22 destroyed, stolen or lost bonds, may be authenticated in such
23 manner and upon compliance with such conditions, and may
24 contain other terms and covenants, as may be provided by ordi-

25 nance of the governing body of the municipality. Notwithstand-
26 ing the form or tenor thereof, and in the absence of an express
27 recital on the face thereof that the bond is nonnegotiable, all
28 bonds shall at all times be, and shall be treated as, negotiable
29 instruments for all purposes.

30 The bonds and the interest thereon, together with all proper-
31 ties and facilities of the municipality owned or used in connec-
32 tion with the combined system, and all the moneys, revenues
33 and other income of such municipality derived from the com-
34 bined system shall be exempt from all taxation by this state or
35 any county, municipality, political subdivision or agency
36 thereof. Bonds may be sold in such manner as the governing
37 body shall determine. If any bonds shall be issued to bear inter-
38 est at a rate of twelve percent per annum, the price at which
39 they may be sold shall be such that the interest cost to the mu-
40 nicipality of the proceeds of the bonds may not exceed thirteen
41 percent per annum computed to maturity according to the stan-
42 dard table of bond values.

43 If the governing body of the municipality determines to sell
44 any revenue bonds of such combined system for refunding
45 purposes, the proceeds of the bonds shall be deposited at the
46 place of payment of the bonds, obligations or securities being
47 refunded thereby.

48 In case any officer whose signature appears on the bonds or
49 coupons attached thereto shall cease to be such officer before
50 the delivery of the bonds to the purchaser, such signature shall
51 nevertheless be valid and sufficient for all purposes, with the
52 same effect as if he or she had remained in office until the de-
53 livery of the bonds. All signatures on the bonds or coupons and
54 the corporate seal may be mechanically reproduced if autho-
55 rized in the ordinance authorizing the issuance of the bonds.
56 The bonds shall have all the qualities of negotiable instruments
57 under the laws of this state.

58 Whenever a waterworks and sewerage system or storm-
59 water system, if applicable, is included in a combined system

60 under the provisions of this article and there are unpaid and
61 outstanding revenue bonds or any other obligations or securities
62 previously issued which are payable solely from the revenues of
63 the waterworks or the sewerage system or stormwater system, if
64 applicable, or any part thereof, such outstanding bonds, obliga-
65 tions or securities may be refunded by the issuance and sale or
66 exchange therefor of revenue bonds to be issued under the pro-
67 visions of this article.

68 Whenever any outstanding bonds, obligations or securities
69 previously issued which are payable solely from the revenues of
70 any waterworks or sewerage system, or stormwater system, if
71 applicable, included in a combined system under the provisions
72 of this article are refunded and the refunding is to be accom-
73 plished by exchange, such outstanding bonds, obligations or
74 securities shall be surrendered and exchanged for revenue
75 bonds of such combined system of a total principal amount
76 which shall not be more and may be less than the principal
77 amount of the bonds, obligations or securities surrendered and
78 exchanged plus the interest to accrue thereon to the date of
79 surrender and exchange, and if the refunding is to be accom-
80 plished through the sale of revenue bonds of such combined
81 system the total principal amount of such revenue bonds which
82 may be sold for refunding purposes shall not exceed the princi-
83 pal amount of the bonds, obligations or securities being re-
84 funded plus the interest to accrue thereon to the retirement date
85 or the next succeeding interest payment date, whichever date
86 may be earlier.

87 Provision may be made that each bond to be exchanged for
88 refunding bonds shall be kept intact and shall not be canceled or
89 destroyed until the refunding bonds, and interest thereon, have
90 been finally paid and discharged, but each bond shall be
91 stamped with a legend to the effect that the same has been re-
92 funded pursuant to the provisions of this article.

**§8-20-6. Bonds payable solely from revenues; not to constitute
municipal indebtedness.**

1 Bonds issued under the provisions of this article shall be
2 payable solely from the revenues derived from the combined
3 system, and the bonds may not in any event constitute an in-
4 debtedness of such municipality within the meaning of any
5 constitutional or statutory provision or limitation and it shall be
6 plainly stated on the face of each bond that the same has been
7 issued under the provisions of this article, and that it does not
8 constitute an indebtedness of the municipality within any con-
9 stitutional or statutory provision or limitation. The ordinance
10 authorizing the issuance of the bonds may contain such cove-
11 nants and restrictions upon the issuance of additional revenue
12 bonds thereafter as may be considered necessary or advisable
13 for the assurance of payment of the bonds thereby authorized
14 and as may thereafter be issued.

§8-20-7. Lien of bondholders.

1 There shall be and there is hereby created and granted a
2 statutory mortgage lien upon such combined system which shall
3 exist in favor of the holder of bonds hereby authorized to be
4 issued, and each of them, and to and in favor of the holder of
5 the coupons attached to said bonds, and such combined system
6 shall remain subject to such statutory mortgage lien until pay-
7 ment in full of the principal of and interest upon said bonds.
8 However, no lien may attach to any portion of any highways,
9 road or drainage easements or stormwater facilities constructed,
10 owned or operated by the West Virginia Division of Highways.

11 Any municipality in acquiring an existing waterworks sys-
12 tem may provide that payment therefor shall be made by issuing
13 revenue bonds and delivering the same at such prices as may be
14 agreed upon within the limitations prescribed in section five
15 hereof. Any revenue bonds so issued in payment for an existing
16 waterworks system shall for all purposes be regarded as partak-
17 ing of the nature of and as being secured by a purchase money
18 mortgage upon the property so acquired; and the holders thereof
19 shall have, in addition to any other remedies and rights pre-
20 scribed by this article, remedies and rights as may now or here-
21 after exist in law in the case of purchase money mortgages.

§8-20-8. Covenants with bondholders.

1 Any ordinance authorizing the issuance of bonds hereunder,
2 or any trust indenture with any banking institution or trust com-
3 pany, within or without the state, for the security of said bonds,
4 which any municipality is hereby empowered and authorized to
5 enter into and execute, may contain covenants with the holders
6 of the bonds as to:

7 (a) The purpose or purposes to which the proceeds of sale
8 of bonds or the revenues derived from said combined system
9 may be applied and the securing, use and disposition thereof,
10 including, if considered desirable, the appointment of a trustee
11 or depository for any of the funds;

12 (b) The pledging of all or any part of the revenues derived
13 from the ownership, control or operation of such combined
14 system, including any part thereof heretofore or hereafter ac-
15 quired, constructed, established, extended, equipped, added to,
16 bettered or improved or derived from any other sources, to the
17 payment of the principal of or interest thereon of bonds issued
18 hereunder and for reserve or other funds as may be considered
19 necessary or desirable;

20 (c) The fixing, establishing and collecting of rates, fees or
21 charges for the use of the services and facilities of the combined
22 system, including the parts thereof heretofore or hereafter ac-
23 quired, constructed, established, extended, equipped, added to,
24 bettered or improved and the revision of same from time to
25 time, as will always provide revenues at least sufficient to pro-
26 vide for all expenses of repair, maintenance and operation of
27 such combined system, the payment of the principal of and
28 interest upon all bonds or other obligations payable from the
29 revenues of such combined system, and all reserve and other
30 funds required by the terms of the ordinance authorizing the
31 issuance of bonds;

32 (d) The transfer from the general funds of the municipality
33 to the account or accounts of the combined system of an amount

34 equal to the cost of furnishing the municipality or any of its
35 departments, boards or agencies with the services and facilities
36 of such combined system;

37 (e) Limitations or restrictions upon the issuance of addi-
38 tional bonds or other obligations payable from the revenues of
39 such combined system, and the rank or priority, as to lien and
40 source and security for payment from the revenues of such
41 combined system, between bonds payable from the revenues;

42 (f) The manner and terms upon which all bonds and other
43 obligations issued hereunder may be declared immediately due
44 and payable upon the happening of a default in the payment of
45 the principal of or interest thereon, or in the performance of any
46 covenant or agreement with bondholders, and the manner and
47 terms upon which defaults may be declared cured and the accel-
48 eration of the maturity of the bonds rescinded and repealed;

49 (g) Budgets for the annual repair, maintenance and opera-
50 tion of such combined system and restrictions and limitations
51 upon expenditures for the purposes, and the manner of adop-
52 tion, modification, repeal or amendment thereof, including the
53 approval of the budgets by consulting engineers designated by
54 holders of bonds issued hereunder;

55 (h) The amounts of insurance to be maintained upon the
56 combined system, or any part thereof, and the use and disposi-
57 tion of the proceeds of any insurance; and

58 (i) The keeping of books of account, relating to such under-
59 taking and the audit and inspection thereof, and the furnishing
60 to the holders of bonds issued hereunder or their representa-
61 tives, reports prepared, certified or approved by accountants
62 designated or approved by the holders of bonds issued hereun-
63 der.

64 Any ordinance or trust indenture may also contain other
65 additional covenants as shall be considered necessary or desir-
66 able for the security of the holders of bonds issued under the

67 provisions of this article, notwithstanding that other covenants
68 are not expressly enumerated above, it being the intention
69 hereof to grant to municipalities plenary power and authority to
70 make any and all covenants or agreements necessary in order to
71 secure greater marketability for bonds issued hereunder as fully
72 and to the same extent as covenants or agreements could be
73 made by a private corporation rendering similar services and
74 facilities and to grant to municipalities full and complete power
75 and authority to enter into any contracts, covenants or agree-
76 ments with holders of bonds issued hereunder not inconsistent
77 with the constitution of this state.

§8-20-9. Operating contract.

1 Any municipality may enter into contracts or agreements
2 with any persons for: (1) The repair, maintenance and operation
3 and management of the facilities and properties of the combined
4 system, or any part thereof; or (2) the collection and disburse-
5 ment of the income and revenues thereof, or for both (1) and
6 (2), for the period of time and under terms and conditions as
7 shall be agreed upon between the municipality and such per-
8 sons. Any municipality shall have plenary power and authority
9 to provide in the ordinance authorizing the issuance of bonds
10 hereunder, or in any trust indenture securing the bonds, that the
11 contracts or agreements shall be valid and binding upon the
12 municipality as long as any of the bonds, or interest thereon, is
13 outstanding and unpaid.

**§8-20-10. Power and authority of municipality to enact ordinances
and make rules and regulations and fix rates, fees
or charges; change in rates, fees or charges; fail-
ure to cure delinquency; delinquent rates, fees or
charges as liens; civil action for recovery thereof;
deferral of filing fees and costs in magistrate court
action; limitations with respect to foreclosure.**

1 (a) The governing body of any municipality availing itself
2 of the provisions of this article shall have plenary power and

3 authority to make, enact and enforce all needful rules and regu-
4 lations for the repair, maintenance and operation and manage-
5 ment of the combined system of such municipality and for the
6 use thereof, and shall also have plenary power and authority to
7 make, enact and enforce all needful rules and regulations and
8 ordinances for the care and protection of any such system,
9 which may be conducive to the preservation of the public
10 health, comfort and convenience and to rendering the water
11 supply of such municipality pure, the sewerage harmless insofar
12 as it is reasonably possible so to do, and if applicable properly
13 collecting and controlling the stormwater as is reasonably possi-
14 ble so to do: *Provided*, That no municipality may make, enact
15 or enforce any rule, regulation or ordinance regulating any
16 highways, road or drainage easements or stormwater facilities
17 constructed, owned or operated by the West Virginia Division
18 of Highways except in accordance with chapter twenty-nine-a
19 of this code.

20 Any municipality shall have plenary power and authority to
21 charge the users for the use and service of combined system and
22 to establish rates, fees or charges for such purpose. Separate
23 rates, fees or charges may be fixed for the water and sewer
24 services respectively, and, if applicable, the stormwater ser-
25 vices, or combined rates, fees or charges for the combined water
26 and sewer services, and, if applicable, the stormwater services.
27 Such rates, fees or charges, whether separate or combined, shall
28 be sufficient at all times to pay the cost of repair, maintenance
29 and operation of the combined system, provide an adequate
30 reserve fund and adequate depreciation fund and pay the princi-
31 pal of and interest upon all revenue bonds issued under this
32 article. Rates, fees or charges shall be established, revised and
33 maintained by ordinance and become payable as the governing
34 body may determine by ordinance, and such rates, fees or
35 charges shall be changed from time to time as needful, consis-
36 tent with the provisions of this article.

37 (b) Whenever any rates, fees or charges for services or
38 facilities furnished remain unpaid for a period of thirty days

39 after the same become due and payable, the user of the services
40 and facilities provided shall be delinquent and the user shall be
41 held liable at law until such time as all rates, fees and charges
42 are fully paid.

43 (c) All rates, fees or charges for water service, sewer ser-
44 vice, and, if applicable, stormwater service, whenever delin-
45 quent, as provided by ordinance of the municipality, shall be
46 liens of equal dignity, rank and priority with the lien on such
47 premises of state, county, school and municipal taxes for the
48 amount thereof upon the real property served, and the munici-
49 pality shall have plenary power and authority from time to time
50 to enforce such lien in a civil action to recover the money due
51 for services rendered plus court fees and costs and a reasonable
52 attorney's fee: *Provided*, That an owner of real property may
53 not be held liable for the delinquent rates, fees or charges for
54 services or facilities of a tenant, nor shall any lien attach to real
55 property for the reason of delinquent rates, fees or charges for
56 services or facilities of a tenant of the real property, unless the
57 owner has contracted directly with the municipality to purchase
58 such services or facilities.

59 (d) Municipalities are hereby granted a deferral of filing
60 fees or other fees and costs incidental to the bringing and main-
61 tenance of an action in magistrate court for the collection of the
62 delinquent rates and charges. If the municipality collects the
63 delinquent account, plus fees and costs, from its customer or
64 other responsible party, the municipality shall pay to the magis-
65 trate court the filing fees or other fees and costs which were
66 previously deferred.

67 (e) No municipality may foreclose upon the premises
68 served by it for delinquent rates, fees or charges for which a lien
69 is authorized by this section except through the bringing and
70 maintenance of a civil action for the purpose brought in the
71 circuit court of the county wherein the municipality lies. In
72 every such action, the court shall be required to make a finding
73 based upon the evidence and facts presented that the municipal-
74 ity had exhausted all other remedies for the collection of debts

75 with respect to such delinquencies prior to the bringing of the
76 action. In no event shall foreclosure procedures be instituted by
77 any municipality or on its behalf unless the delinquency had
78 been in existence or continued for a period of two years from
79 the date of the first delinquency for which foreclosure is being
80 sought.

§8-20-11. Discontinuance of water service for nonpayment of rates or charges.

1 Any municipality shall also have plenary power and author-
2 ity, and may covenant with the holders of any bonds issued
3 hereunder, to shut off and discontinue the supplying of the wa-
4 ter service of the combined system for the nonpayment of the
5 rates, fees or charges for said water service or sewer service, or
6 both, or, if applicable, stormwater service, or any combination
7 thereof, or all of them.

§8-20-11a. Governmental entities subject to established rates.

1 The municipality and any county government, state govern-
2 ment and federal government served by the services of the com-
3 bined system shall be subject to the same rates, fees or charges
4 established in this article or to rates, fees or charges established
5 in harmony therewith, for service rendered to the governmental
6 entity, and shall pay such rates, fees or charges when due from
7 corporate funds and the same shall be considered to be part of
8 the revenue of the combined system as defined in this article,
9 and be applied as provided in this article, for the application of
10 such revenues. However, no rates, fees or charges for combined
11 services or stormwater services may be assessed against high-
12 ways, road and drainage easements, and/or stormwater facilities
13 constructed, owned and/or operated by the West Virginia Divi-
14 sion of Highways.

§8-20-12. Use of revenues; sinking fund.

1 All revenues derived from the operation of any combined
2 system under the provisions of this article shall be set aside as

3 collected and used only for the purpose of paying the cost of
4 repairing, maintaining and operating such system, providing an
5 adequate reserve fund, an adequate depreciation fund, and pay-
6 ing the principal of and interest upon the revenue bonds issued
7 by the municipality under the provisions of this article. The
8 ordinance pursuant to which any bonds are issued shall pledge
9 the revenues derived from the combined system to the purposes
10 aforesaid and shall definitely fix and determine the amount of
11 revenues which shall be necessary and set apart in a special
12 fund for the bond requirements. The amounts so set apart into
13 said special fund for the bond requirements shall be remitted to
14 the West Virginia municipal bond commission to be retained
15 and paid out by said commission consistent with the provisions
16 of this article and the ordinance pursuant to which the bonds
17 have been issued: *Provided*, That payments of principal of and
18 interest on any bonds owned by the United States of America or
19 any agency or department thereof may be made by the munici-
20 pality directly to the United States of America or said agency or
21 department thereof.

§8-20-13. System of accounts; audit.

1 Any municipality operating a combined system under the
2 provisions of this article shall set up and maintain a proper
3 system of accounts in accordance with the requirements of the
4 public service commission, showing the amount of revenues
5 received from the combined system and the application of the
6 same. At least once each year the municipality shall cause the
7 accounts to be properly audited, and a report of the audit shall
8 be open to the public for inspection at all reasonable times.

**§8-20-15. Protection and enforcement of rights of bondholders,
etc.; receivership.**

1 Any holder of any bonds issued under the provisions of this
2 article or of any coupons representing interest accrued thereon
3 may by civil action, mandamus or other proper proceeding
4 enforce the statutory mortgage lien created and granted in sec-
5 tion seven of this article, protect and enforce any and all rights

6 granted hereunder or under any such ordinance or trust inden-
7 ture, and may enforce and compel performance of all duties
8 required by the provisions of this article or by any ordinance or
9 trust indenture to be performed by the municipality or by the
10 governing body or any officer, including the making and col-
11 lecting of reasonable and sufficient rates, fees or charges for
12 services rendered by the combined system.

13 If there be default in the payment of the principal of or
14 interest upon any of bonds, or of both principal and interest, any
15 court having jurisdiction shall appoint a receiver to administer
16 said combined system on behalf of the municipality, and the
17 bondholders or trustee, or both, with power to charge and col-
18 lect rates, fees or charges sufficient to provide for the retirement
19 of the bonds and pay the interest thereon, and for the payment
20 of the repair, maintenance and operation expenses, and the
21 receiver shall apply the revenues in conformity with the provi-
22 sions of this article and the ordinance pursuant to which the
23 bonds have been issued or trust indenture, or both.

§8-20-16. Grants, loans and advances.

1 Any municipality is hereby empowered and authorized to
2 accept loans or grants and procure loans or temporary advances
3 evidenced by notes or other negotiable instruments issued in the
4 manner, and subject to the privileges and limitations, set forth
5 with respect to bonds authorized to be issued under the provi-
6 sions of this article, for the purpose of paying part or all of the
7 cost of acquisition, construction, establishment, extension or
8 equipment of combined systems and the construction of addi-
9 tions, betterments and improvements thereto, and for the other
10 purposes herein authorized, from any authorized agency of the
11 state or from the United States of America or any federal or
12 public agency or department of the United States or any private
13 agency, corporation or individual, which loans or temporary
14 advances, including the interest thereon, may be repaid out of
15 the proceeds of bonds authorized to be issued under the provi-
16 sions of this article, the revenues of the said combined system
17 or grants to the municipality from any agency of the state or

18 from the United States of America or any federal or public
19 agency or department of the United States or any private
20 agency, corporation or individual or from any combination of
21 such sources of payment, and to enter into the necessary con-
22 tracts and agreements to carry out the purposes hereof with any
23 agency of the state, the United States of America or any federal
24 or public agency or department of the United States, or with any
25 private agency, corporation or individual. Any other provisions
26 of this article notwithstanding, interest on any loans or tempo-
27 rary advances may be paid from the proceeds thereof until the
28 maturity of the notes or other negotiable instrument.

29 In no event shall any loan or temporary advance be a gen-
30 eral obligation of the municipality and the loans or temporary
31 advances, including the interest thereon, shall be paid solely
32 from the sources specified in this section.

**§8-20-17. Additional and alternative method for constructing, etc.,
and financing combined system; cumulative au-
thority.**

1 This article is, without reference to any other statute or
2 charter provision, full authority for the acquisition, construction,
3 establishment, extension, equipment, additions, betterment,
4 improvement, repair, maintenance and operation of or to the
5 combined system herein provided for and for the issuance and
6 sale of the bonds by this article authorized, and is an additional
7 and alternative method therefor and for the financing thereof,
8 and no petition, referendum or election or other or further pro-
9 ceeding with respect to any undertaking or to the issuance or
10 sale of bonds under this article and no publication of any resolu-
11 tion, ordinance, notice or proceeding relating to any undertak-
12 ing or to the issuance or sale of such bonds is required, except
13 as prescribed by this article, any provisions of other statutes of
14 the state to the contrary notwithstanding: *Provided*, That all
15 functions, powers and duties of the bureau of public health and
16 the division of environmental protection remain unaffected by
17 this article: *Provided*, however, that no municipality may ac-

18 quire, construct, establish, extend, repair or equip or thereafter
19 repair, maintain and operate a combined waterworks, sewerage
20 or stormwater system which includes highways, road and drain-
21 age easements, and/or stormwater facilities constructed, owned
22 and/or operated by the West Virginia Division of Highways
23 without the express agreement of the commissioner of high-
24 ways.

25 This article is cumulative authority for any undertaking
26 herein authorized, and does not repeal any existing laws with
27 respect thereto.

**§8-20-18. Alternative procedure for acquisition, construction, etc.,
of combined system.**

1 (a) As an alternative to the procedure provided in this arti-
2 cle, any municipality is hereby empowered and authorized to
3 acquire, construct, establish, extend, equip, repair, maintain and
4 operate a combined system or to construct, maintain and operate
5 additions, betterments and improvements thereto, whether ac-
6 quired, constructed, established, extended or equipped under the
7 provisions of this article or not, and to collect the revenues
8 therefrom for the services rendered thereby, through the super-
9 vision and control of a committee, by whatever name called,
10 composed of all or of a portion of the governing body, or of a
11 board or commission appointed by the governing body, as may
12 be provided by the governing body, and if such alternative is
13 followed, said committee, board or commission shall have and
14 be limited to all the powers, authority and duties granted to and
15 imposed upon a board as provided in article sixteen of this
16 chapter.

17 However, no municipality may acquire, construct, establish,
18 extend, repair or equip or thereafter repair, maintain and operate
19 a combined waterworks, sewerage or stormwater system, which
20 includes highways, road and drainage easements, and/or storm-
21 water facilities constructed, owned and/or operated by the West
22 Virginia Division of Highways without the express agreement
23 of the commissioner of highways.

24 (b) In the event that the waterworks or sewerage system or
 25 both, or if applicable, stormwater services, are in existence prior
 26 to the creation of the combined system, and the waterworks or
 27 sewerage system or both, and if applicable, stormwater services,
 28 are supervised and controlled by a committee, board or commis-
 29 sion, and the alternative provided for in subsection (a) of this
 30 section is to be followed with respect to the supervision and
 31 control of the combined system, the governing body may by
 32 ordinance, after the creation of the combined system, provide:

33 (1) The manner of and procedure for transferring supervi-
 34 sion and control from each separate committee, board or com-
 35 mission to the committee, board or commission which is super-
 36 vising and controlling the combined system; or

37 (2) The manner of and procedure for combining each sepa-
 38 rate committee, board or commission into one committee, board
 39 or commission and transferring thereto supervision and control
 40 as aforesaid.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 13. SEWAGE WORKS AND STORMWATER WORKS.

§16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.

1 (a) Any municipal corporation and/or sanitary district in the
 2 state of West Virginia is hereby authorized and empowered to
 3 own, acquire, construct, equip, operate and maintain within
 4 and/or without the corporate limits of such municipal corpora-
 5 tion:

6 (1) A sewage collection system and/or a sewage treatment
 7 plant or plants, intercepting sewers, outfall sewers, force mains,
 8 pumping stations, ejector stations, and all other appurtenances
 9 necessary or useful and convenient for the collection and/or
 10 treatment, purification and disposal, in a sanitary manner, of the
 11 liquid and solid waste, sewage, night soil and industrial waste of

12 such municipal corporation and/or sanitary district, including
13 acquisition of the municipal sewerage system resulting from the
14 severance of a combined system pursuant to section one-b,
15 article twenty, chapter eight of this code; and

16 (2) A stormwater collection system and control system,
17 including all lines, pumping stations and all other facilities and
18 appurtenances necessary or useful and convenient for the col-
19 lection and control of stormwater, and an associated stormwater
20 management program.

21 (b) Any municipal corporation and/or sanitary district in the
22 state of West Virginia is hereby authorized and empowered to
23 acquire by gift, grant, purchase, condemnation, or otherwise, all
24 necessary lands, rights-of-way and property therefor, within
25 and/or without the corporate limits of such municipal corpora-
26 tion and/or sanitary district, and to issue revenue bonds to pay
27 the cost of such works and property.

28 (c) Any municipality may serve and supply the facilities of
29 such sewerage system and a stormwater system and associated
30 stormwater management program within the corporate limits of
31 the municipality and within the area extending twenty miles
32 beyond the corporate limits of such municipality: *Provided*,
33 That the municipality may not serve or supply the facilities of
34 such sewerage system or stormwater system within the corpo-
35 rate limits of any other municipality without the consent of the
36 governing body thereof: *Provided*, That for stormwater systems,
37 within the twenty miles beyond the municipality's corporate
38 limits the only areas the municipality may serve and supply
39 shall be those areas from which stormwater affects or drains
40 into the municipality.

41 (d) No obligations shall be incurred by any municipality
42 and/or sanitary district in construction or acquisition except
43 such as is payable solely from the funds provided under the
44 authority of this article.

45 (e) No municipal corporation or sanitary district may ac-
46 quire, construct, establish, extend, repair or equip or thereafter
47 repair, maintain and operate a combined waterworks, sewerage

48 or stormwater system, which includes highways, road and
49 drainage easements, and/or stormwater facilities constructed,
50 owned and/or operated by the West Virginia Division of High-
51 ways without the express agreement of the commissioner of
52 highways.

**§16-13-2. Sanitary board to supervise and control construction,
etc., of works; appointment of board; definitions.**

1 (a) The construction, acquisition, improvement, equipment,
2 custody, operation and maintenance of any works for the collec-
3 tion, treatment or disposal of sewage and, in addition, for the
4 collection and control of stormwater and the collection of reve-
5 nues therefrom for the service rendered thereby, shall be under
6 the supervision and control of a sanitary board appointed by the
7 governing body as set forth in section eighteen of this article.

8 (b) As used in this article, the following terms shall have
9 the following meanings unless the text clearly indicates other-
10 wise.

11 (1) "Board" means the sanitary board as set up in section
12 eighteen of this article.

13 (2) "Governing body" means the mayor and council or
14 other legally constituted governing body of any municipality.

15 (3) (d) "Municipality" means any municipal corporation,
16 incorporated city, town, village or sanitary district in the state of
17 West Virginia.

18 (4) "Sewage works" means a works for the collection
19 and/or treatment, purification and disposal of sewage, in its
20 entirety or any integral part thereof.

21 (5) "Stormwater system" or "stormwater works" means a
22 stormwater system in its entirety or any integral part thereof
23 used to collect and dispose of stormwater and an associated
24 stormwater management program. It includes all facilities,

25 structures and natural water courses used for collecting and
26 conducting stormwater to, through and from drainage areas to
27 the points of final outlet, including, but not limited to, any and
28 all of the following: Inlets, conduits, corals, outlets, channels,
29 ponds, drainage easements, water quality facilities, catch basins,
30 ditches, streams, gulches, flumes, culverts, syphons, retention or
31 detention basins, dams, floodwalls, levies, pipes, flood control
32 systems and pumping stations, and associated stormwater man-
33 agement program. The term “stormwater system” and “storm-
34 water works” shall not include highways, road and drainage
35 easements, and/or stormwater facilities constructed, owned
36 and/or operated by the West Virginia Division of Highways.

37 (6) “Stormwater management program” means those activi-
38 ties associated with the management, operation, maintenance
39 and control of stormwater and stormwater works, including, but
40 not limited to, public education, stormwater and surface runoff
41 water quality improvement, mapping, planning, flood control,
42 inspection, enforcement and any other activities required by
43 state and federal law: Provided, That, as used in this article,
44 “stormwater management program” shall not include those
45 activities associated with the management, operation, mainte-
46 nance and control of highways, road and drainage easements,
47 and/or stormwater facilities constructed, owned and/or operated
48 by the West Virginia Division of Highways without the express
49 agreement of the commissioner of highways.

50 (7) “Works” means sewage works and stormwater works
51 either separately or collectively.

**§16-13-3. Powers of sanitary board; contracts; employees; com-
pensation thereof; extensions and improvements;
replacement of damaged public works.**

1 The board shall have power to take all steps and proceed-
2 ings and to make and enter into all contracts or agreements
3 necessary or incidental to the performance of its duties and the
4 execution of its powers under this article: *Provided*, That any
5 contract relating to the financing of the acquisition or construc-

6 tion of any works, or any trust indenture as provided for, shall
7 be approved by the governing body of the municipality before
8 the same shall be effective.

9 The board may employ engineers, architects, inspectors,
10 superintendents, managers, collectors, attorneys, and other
11 employees as in its judgment may be necessary in the execution
12 of its powers and duties, and may fix their compensation, all of
13 whom shall do the work as the board shall direct. All compensa-
14 tion and all expenses incurred in carrying out the provisions of
15 this article shall be paid solely from funds provided under the
16 authority of this article, and the board shall not exercise or carry
17 out any authority or power herein given it so as to bind said
18 board of said municipality beyond the extent to which money
19 shall have been or may be provided under the authority of this
20 article.

21 No contract or agreement with any contractor or contractors
22 for labor and/or material, exceeding in amount the sum of ten
23 thousand dollars, shall be made without advertising for bids,
24 which bids shall be publicly opened and award made to the best
25 bidder, with power in the board to reject any or all bids.

26 After the construction, installation, and completion of the
27 works, or the acquisition thereof, the board shall operate, man-
28 age and control the same and may order and complete any ex-
29 tensions, betterments and improvements of and to the works
30 that the board may consider expedient, if funds therefor be
31 available or are made available as provided in this article, and
32 shall establish rules and regulations for the use and operation of
33 the works, and of other sewers, stormwater conduits, and drains
34 connected therewith so far as they may affect the operation of
35 such works, and do all things necessary or expedient for the
36 successful operation thereof, including, but not limited to, those
37 activities necessary to comply with all federal and state require-
38 ments, including stormwater and surface runoff water quality
39 improvement activities.

40 The sanitary board may declare an emergency situation in
41 the event of collector line breaks or vital treatment plant equip-
42 ment failure and shall be exempted from competitive bidding
43 requirements and enter into direct purchase agreements or con-
44 tracts for the expenses. All public ways or public works dam-
45 aged or destroyed by the board in carrying out its authority
46 under this article shall be restored or repaired by the board and
47 placed in their original condition, as nearly as practicable, if
48 requested so to do by proper authority, out of the funds pro-
49 vided by this article.

**§16-13-9. Contracts and obligations incurred to be paid for solely
by revenue bonds.**

1 Nothing in this article contained shall be so construed as to
2 authorize or permit any municipality to make any contract or to
3 incur any obligation of any kind or nature except such as shall
4 be payable solely from the funds provided under this article.
5 Funds for the payment of the entire cost of any of the works
6 referred to in this article, exclusive of any portions of the cost
7 that may be defrayed out of any grant or contribution, shall be
8 provided by the issuance of revenue bonds of the municipality,
9 the principal and interest of which shall be payable solely from
10 the fund herein provided for the payment, and the bonds may
11 not, in any respect, be a corporate indebtedness of the munic-
12 ipality, within the meaning of any statutory or constitutional
13 limitations thereon. All the details of the bonds shall be deter-
14 mined by ordinance or ordinances of the municipality.

**§16-13-16. Rates for service; change or readjustment; hearing;
lien and recovery; discontinuance of services.**

1 The governing body shall have power, and it shall be its
2 duty, by ordinance, to establish and maintain just and equitable
3 rates, fees or charges for the use of and the service rendered by:

4 (a) Sewerage works, to be paid by the owner of each and
5 every lot, parcel of real estate or building that is connected with
6 and uses such works by or through any part of the sewerage

7 system of the municipality, or that in any way uses or is served
8 by such works; and

9 (b) Stormwater works, to be paid by the owner of each and
10 every lot, parcel of real estate, or building that in any way uses
11 or is served by such stormwater works or whose property is
12 improved or protected by the stormwater works or any user of
13 such stormwater works.

14 The governing body may change and readjust such rates,
15 fees or charges from time to time. However, no rates, fees or
16 charges for stormwater services may be assessed against high-
17 ways, road and drainage easements, and/or stormwater facilities
18 constructed, owned and/or operated by the West Virginia Divi-
19 sion of Highways.

20 Such rates, fees or charges shall be sufficient in each year
21 for the payment of the proper and reasonable expense of opera-
22 tion, repair, replacements and maintenance of the works and for
23 the payment of the sums herein required to be paid into the
24 sinking fund. Revenues collected pursuant to this section shall
25 be considered the revenues of the works.

26 No such rates, fees or charges shall be established until
27 after a public hearing, at which all the users of the works and
28 owners of property served or to be served thereby and others
29 interested shall have an opportunity to be heard concerning the
30 proposed rates, fees or charges.

31 After introduction of the ordinance fixing such rates, fees or
32 charges, and before the same is finally enacted, notice of such
33 hearing, setting forth the proposed schedule of such rates, fees
34 or charges, shall be given by publication as a Class II-O legal
35 advertisement in compliance with the provisions of article three,
36 chapter fifty-nine of this code, and the publication area for such
37 publication shall be the municipality. The first publication shall
38 be made at least ten days before the date fixed in such notice for
39 the hearing.

40 After such hearing, which may be adjourned from time to
41 time, the ordinance establishing rates, fees or charges, either as
42 originally introduced or as modified and amended, shall be
43 passed and put into effect. A copy of the schedule of such rates,
44 fees and charges so established shall be kept on file in the office
45 of the board having charge of the operation of such works, and
46 also in the office of the clerk of the municipality, and shall be
47 open to inspection by all parties interested. The rates, fees or
48 charges so established for any class of users or property served
49 shall be extended to cover any additional premises thereafter
50 served which fall within the same class, without the necessity of
51 any hearing or notice.

52 Any change or readjustment of such rates, fees or charges
53 may be made in the same manner as such rates, fees or charges
54 were originally established as hereinbefore provided: *Provided,*
55 That if such change or readjustment be made substantially pro
56 rata, as to all classes of service, no hearing or notice shall be
57 required. The aggregate of the rates, fees or charges shall al-
58 ways be sufficient for such expense of operation, repair and
59 maintenance and for such sinking fund payments.

60 All rates, fees or charges, if not paid when due, shall consti-
61 tute a lien upon the premises served by such works. If any ser-
62 vice rate, fees or charge so established is not paid within thirty
63 days after the same is due, the amount thereof, together with a
64 penalty of ten percent, and a reasonable attorney's fee, may be
65 recovered by the board in a civil action in the name of the mu-
66 nicipality, and in connection with such action said lien may be
67 foreclosed against such lot, parcel of land or building, in accor-
68 dance with the laws relating thereto: *Provided, however,* That
69 where both water and sewer services are furnished by any mu-
70 nicipality to any premises the schedule of charges may be billed
71 as a single amount or individually itemized and billed for the
72 aggregate thereof.

73 Whenever any rates, rentals, fees or charges for services or
74 facilities furnished shall remain unpaid for a period of thirty
75 days after the same shall become due and payable, the property

76 and the owner thereof, as well as the user of the services and
77 facilities shall be delinquent until such time as all rates, fees and
78 charges are fully paid.

79 The board collecting such rates, fees or charges shall be
80 obligated under reasonable rules and regulations, to shut off and
81 discontinue both water and sewer services to all delinquent
82 users of either water facilities, or sewer facilities, or both, and
83 shall not restore either water facilities or sewer facilities, to any
84 delinquent user of either until all delinquent rates, fees or
85 charges for both water facilities, and sewer facilities, including
86 reasonable interest and penalty charges, have been paid in full.

§16-13-17. Government units subject to established rates.

1 The municipality and any county government, state govern-
2 ment and federal government served by the services of the
3 works shall be subject to the same fees, charges and rates estab-
4 lished as provided in this article, or to fees, charges and rates
5 established in harmony therewith, for service rendered the mu-
6 nicipality, county, state or federal government and shall pay
7 such rates, fees or charges when due from corporate funds and
8 the same shall be considered to be a part of the revenues of the
9 works as herein defined, and be applied as herein provided for
10 the application of the revenues. However, no rates, fees or
11 charges for stormwater services may be assessed against high-
12 ways, road and drainage easements, and/or stormwater facilities
13 constructed, owned and/or operated by the West Virginia Divi-
14 sion of Highways.

**§16-13-18. Supervision of works by sanitary board; organization
of board; qualifications, terms and compensation
of members.**

1 The governing body shall provide by ordinance the organi-
2 zation of the board, and that the custody, administration, opera-
3 tion and maintenance of such works shall be under the supervi-
4 sion and control of a sanitary board, created as herein provided.

5 Such sanitary board shall be composed of either the mayor
6 of the municipality, or the city manager thereof, if said municipi-
7 pality shall have a city manager form of government, and two
8 persons appointed by the governing body: *Provided*, That, in
9 the event of an acquisition or merger of an existing works, the
10 governing body may increase the membership to a maximum of
11 four members in addition to the mayor or city manager of the
12 municipality served by the board.

13 During the construction period, one of the members must
14 be a registered professional engineer. The engineer member of
15 the board need not be a resident of said municipality. After the
16 construction of the plant has been completed, the engineer
17 member may be succeeded by a person not an engineer. No
18 officer or employee of the municipality, whether holding a paid
19 or unpaid office, shall be eligible to appointment on said sani-
20 tary board until at least one year after the expiration of the term
21 of his or her public office. The appointees shall originally be
22 appointed for terms of two and three years respectively, and
23 upon the expiration of each term and each succeeding term, an
24 appointment of a successor shall be made in like manner for a
25 term of three years. Vacancies shall be filled for an unexpired
26 term in the same manner as the original appointment. Each
27 member shall give such bond, if any, as may be required by
28 ordinance. The mayor or city manager shall act as chairman of
29 the sanitary board, which shall elect a vice chairman from its
30 members and shall designate a secretary and treasurer (but the
31 secretary and the treasurer may be one and the same), who need
32 not be a member or members of the sanitary board. The vice
33 chairman, secretary and treasurer shall hold office as such at the
34 will of the sanitary board.

35 The members of the sanitary board shall receive compensa-
36 tion for their services, either as a salary or as payments for
37 meetings attended, as the governing body may determine, and
38 shall be entitled to payment for their reasonable expenses in-
39 curred in the performance of their duties. The governing body
40 shall fix the reasonable compensation of the secretary and trea-

41 surer in its discretion, and shall fix the amounts of bond to be
42 given by the treasurer. All compensation, together with the
43 expenses in this section referred to, shall be paid solely from
44 funds provided under the authority of this article. The sanitary
45 board shall have power to establish bylaws, rules and regula-
46 tions for its own government.

**§16-13-19. Contract with other municipalities for service of
works; powers of lessee as to rates; intercepting
sewers.**

1 Any municipality operating a sewage collecting system
2 and/or a sewage disposal plant or plants or stormwater works as
3 defined in this article, or which as herein provided has ordered
4 the construction or acquisition of such works (in this section
5 called the owner), is hereby authorized to contract with one or
6 more other municipal corporations or political subdivisions
7 within the state (in this section called the lessee), and such les-
8 sees are hereby authorized to enter into contracts with the own-
9 ers, for the service of such works to such lessees and their in-
10 habitants, but only to the extent of the capacity of the works
11 without impairing the usefulness thereof to the owners, upon
12 such terms and conditions as may be fixed by the boards and
13 approved by ordinances of the respective contracting parties:
14 *Provided*, That no contract shall be made for a period of more
15 than forty years or in violation of the provisions of said ordi-
16 nance authorizing bonds hereunder or in violation of the provi-
17 sions of said trust indenture.

18 The lessee shall by ordinance have power to establish,
19 change and adjust rates, fees and charges for the service ren-
20 dered therein by the works against the owners of the premises
21 served, in the manner hereinbefore provided for establishing,
22 changing and adjusting rates, fees and charges for the service
23 rendered in the municipality where the works are owned and
24 operated, and such rates, fees or charges shall be collectible and
25 shall be a lien as herein provided for rates, fees and charges
26 made by the owner.

27 The necessary intercepting sewers and appurtenant works
28 for connecting the works of the owner with the sewerage system
29 of the lessee shall be constructed by the owner and/or the lessee
30 upon such terms and conditions as may be set forth in said con-
31 tract, and the cost or that part of the cost thereof which is to be
32 borne by the owner may be paid as a part of the cost of the
33 works from the proceeds of bonds issued under this article un-
34 less otherwise provided by said ordinance or trust indenture
35 prior to the issuance of the bonds. The income received by the
36 owner under any contract shall, if so provided in said ordinance
37 or trust indenture, be considered to be a part of the revenues of
38 the works as in this article defined and be applied as herein
39 provided for the application of the revenues.

**§16-13-22. Powers conferred in addition to existing powers; juris-
diction outside corporate limits.**

1 The authority herein given shall be in addition to and not in
2 derogation of any power existing in any municipality under any
3 statutory or charter provisions which it may now have or hereaf-
4 ter adopt. For all purposes of this article, all municipal corpora-
5 tions shall have jurisdiction for twenty miles outside the corpo-
6 rate limits thereof: *Provided*, That for stormwater systems,
7 within the twenty miles beyond the municipality's corporate
8 limits the only areas the municipality may serve and supply
9 shall be those areas from which stormwater affects or drains
10 into the municipality.

11 The jurisdiction and authority provided by this section does
12 not extend to highways, road and drainage easements, and/or
13 stormwater facilities constructed, owned and/or operated by the
14 West Virginia Division of Highways.

§16-13-22f. Exemption of bonds from taxation.

1 Said bonds and the interest thereon, together with all prop-
2 erties and facilities of said municipality owned or used in con-
3 nection with the works, and all the moneys, revenues and other
4 income of such municipality derived from such works shall be

5 exempt from all taxation by the state of West Virginia or any
6 county, municipality, political subdivision or agency thereof.

§16-13-22g. Covenants with bondholders.

1 Any resolution authorizing the issuance of bonds hereun-
2 der, or any trust indenture with any bank or trust company
3 within or without the state, for the security of the bonds, may
4 contain covenants with the holders of such bonds as to:

5 (a) The purpose or purposes to which the proceeds of sale
6 of such bonds, or the revenues derived from the sewerage sys-
7 tem or stormwater system, may be applied and the securing, use
8 and disposition thereof, including, if considered desirable, the
9 appointment of a trustee or depositary for any of such funds;

10 (b) The pledging of all or any part of the revenues derived
11 from the ownership, operation or control of such sewerage
12 systems or stormwater system, including any part thereof here-
13 tofore or hereafter constructed or acquired or derived from any
14 other sources, to the payment of the principal of or interest
15 thereon of bonds issued hereunder and for such reserve or other
16 funds as may be considered necessary or desirable;

17 (c) The fixing, establishing and collecting of such fees,
18 rentals or other charges for the use of the services and facilities
19 of such sewerage system or stormwater system, including the
20 parts thereof heretofore or hereafter constructed or acquired and
21 the revision of same from time to time, as will always provide
22 revenues at least sufficient to provide for all expenses of opera-
23 tion, maintenance and repair of such sewerage system or storm-
24 water system, the payment of the principal of and interest on all
25 bonds or other obligations payable from the revenues of such
26 sewerage system or stormwater system, and all reserve and
27 other funds required by the terms of the ordinance authorizing
28 the issuance of such bonds;

29 (d) The transfer from the general funds of the municipality
30 to the account or accounts of such sewerage system or storm-

31 water system of an amount equal to the cost of furnishing the
32 municipality or any of its departments, boards or agencies with
33 the services and facilities of such sewerage system or storm-
34 water system;

35 (e) Limitations or restrictions upon the issuance of addi-
36 tional bonds or other obligations payable from the revenue of
37 such sewerage system or stormwater system, and the rank or
38 priority, as to lien and source and security for payment from the
39 revenues of the sewerage system or stormwater system, be-
40 tween bonds payable from the revenues;

41 (f) The manner and terms upon which all bonds and other
42 obligations issued hereunder may be declared immediately due
43 and payable upon the happening of a default in the payment of
44 the principal of or interest thereon, or in the performance of any
45 covenant or agreement with bondholders, and the manner and
46 terms upon which defaults may be declared cured and the accel-
47 eration of the maturity of such bonds rescinded and repealed;

48 (g) Budgets for the annual operation, maintenance and
49 repair of such sewerage system or stormwater system and re-
50 strictions and limitations upon expenditures for such purposes,
51 and the manner of adoption, modification, repeal or amendment
52 thereof, including the approval of such budgets by consulting
53 engineers designated by holders of bonds issued hereunder;

54 (h) The amounts of insurance to be maintained upon such
55 sewerage system or stormwater system, or any part thereof, and
56 the use and disposition of the proceeds of any insurance;

57 (i) The keeping of books of account, relating to such under-
58 takings and the audit and inspection thereof, and the furnishing
59 to the holders of bonds issued hereunder or their representa-
60 tives, reports prepared, certified, or approved by accountants
61 designated or approved by the holders of bonds issued hereun-
62 der;

63 (j) Such other additional covenants as shall be considered
64 necessary or desirable for the security of the holders of bonds
65 issued hereunder, notwithstanding that other covenants are not
66 expressly enumerated hereunder, it being the intention hereof to
67 grant to the municipalities the power to make any and all cove-
68 nants or agreements necessary in order to secure greater market-
69 ability for bonds issued hereunder as fully and to the same ex-
70 tent as such covenants or agreements could be made by a pri-
71 vate corporation rendering similar services and facilities and to
72 grant such municipalities full and complete power to enter into
73 any contracts, covenants or agreements with holder of bonds
74 issued hereunder not inconsistent with the constitution of the
75 state of West Virginia.

**§16-13-23a. Additional powers of municipality upon receipt of
order to cease pollution.**

1 Notwithstanding any other provision contained in this arti-
2 cle, and in addition thereto, the governing body of any municipi-
3 pal corporation which has received or which hereafter receives
4 an order issued by the director of the division of environmental
5 protection or the environmental quality board requiring such
6 municipal corporation to cease the pollution of any stream or
7 waters, is hereby authorized and empowered to fix, establish
8 and maintain, by ordinance, just and equitable rates, fees or
9 charges for the use of the services and facilities of the existing
10 sewer system and/or stormwater system of such municipal cor-
11 poration, and/or for the use of the services and facilities to be
12 rendered upon completion of any works and system necessary
13 by virtue of said order, to be paid by the owner, tenant or occu-
14 pant of each and every lot or parcel of real estate or building
15 that is connected with and uses any part of such sewer system or
16 stormwater system, or that in any way uses or is served thereby,
17 and may change and readjust such rates, fees or charges from
18 time to time.

19 Such rates, fees or charges shall be sufficient for the pay-
20 ment of all the proper and reasonable costs and expenses of the

21 acquisition and construction of plants, machinery and works for
22 the collection and/or treatment, purification and disposal of
23 sewage or stormwater, and the repair, alteration and extension
24 of existing sewer facilities or stormwater facilities, as may be
25 necessary to comply with such order of the director of the divi-
26 sion of environmental protection or the environmental quality
27 board, and for the operation, maintenance and repair of the
28 entire works and system.

29 The governing body shall create, by ordinance, a sinking
30 fund to accumulate and hold any part or all of the proceeds
31 derived from rates or charges until completion of the construc-
32 tion, to be remitted to and administered by the municipal bond
33 commission by expending and paying the costs and expenses of
34 construction and operation in the manner as provided by said
35 ordinance.

36 After the completion of the construction such rates, fees or
37 charges shall be sufficient in each year for the payment of the
38 proper and reasonable costs and expenses of operation, mainte-
39 nance, repair, replacement and extension from time to time, of
40 the entire sewer and works or entire stormwater works.

41 No such rates, fees or charges shall be established until
42 after a public hearing, at which all the potential users of the
43 works and owners of property served or to be served thereby
44 and others shall have had an opportunity to be heard concerning
45 the proposed rates or charges.

46 After introduction of the ordinance fixing rates, fees or
47 charges, and before the same is finally enacted, notice of such
48 hearing, setting forth the proposed schedule of rates, fees or
49 charges, shall be given by publication of notice as a Class II-O
50 legal advertisement in compliance with the provisions of article
51 three, chapter fifty-nine of this code, and the publication area
52 for such publication is the municipality. The first publication
53 shall be made at least ten days before the date fixed therein for
54 the hearing.

55 After such hearing, which may be adjourned from time to
56 time, the ordinance establishing the rates, fees or charges, either
57 as originally introduced or as modified and amended, may be
58 passed and put into effect. A copy of the schedule of the rates,
59 fees and charges so established shall be kept on file in the office
60 of the sanitary board having charge of the construction and
61 operation of such works, and also in the office of the clerk of
62 the municipality, and shall be open to inspection by all parties
63 interested. The rates, fees or charges so established for any class
64 of users or property served shall be extended to cover any addi-
65 tional premises thereafter served which fall within the same
66 class, without the necessity of any hearing or notice.

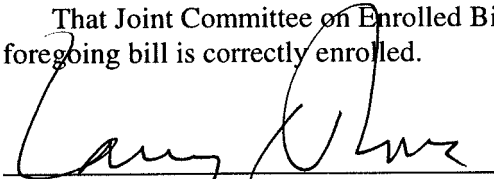
67 Any change or readjustment of rates, fees or charges may
68 be made in the same manner as rates, fees or charges were origi-
69 nally established as hereinbefore provided: *Provided*, That if
70 such change or readjustment be made substantially pro rata, as
71 to all classes of service, no hearing or notice is required.

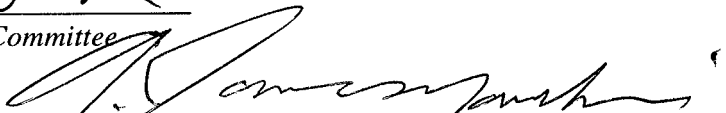
72 If any rate, fees or charge so established is not paid within
73 thirty days after the same is due, the amount thereof, together
74 with a penalty of ten percent, and a reasonable attorney's fee,
75 may be recovered by the sanitary board of such municipal cor-
76 poration in a civil action in the name of the municipality.

77 Any municipal corporation exercising the powers given
78 herein has authority to construct, acquire, improve, equip, oper-
79 ate, repair and maintain any plants, machinery, or works neces-
80 sary to comply with the order of the director of the division of
81 environmental protection or the environmental quality board,
82 and the authority provided herein to establish, maintain and
83 collect rates, fees or charges is an additional and alternative
84 method of financing such works and matters, and is independ-
85 ent of any other provision of this article insofar as the article
86 provides for or requires the issuance of revenue bonds or the
87 imposition of rates, fees and charges in connection with the
88 bonds: *Provided, however*, That except for the method of fi-
89 nancing such works and matters, the construction, acquisition,
90 improvement, equipment, custody, operation, repair and mainte-

91 nance of any plants, machinery or works in compliance with an
92 order of the director of the division of environmental protection
93 or the environmental quality board, and the rights, powers, and
94 duties of the municipal corporation and the respective officers
95 and departments thereof, including the sanitary board, are gov-
96 erned by the provisions of this article: *Provided, further,* That
97 the jurisdiction and authority provided by this section does not
98 extend to highways, road and drainage easements, and/or storm-
99 water facilities constructed, owned and/or operated by the West
100 Virginia Division of Highways and no rates, fees or charges for
101 stormwater services or costs of compliance may be assessed
102 against highways, road and drainage easements, and/or storm-
103 water facilities constructed, owned and/or operated by the West
104 Virginia Division of Highways.

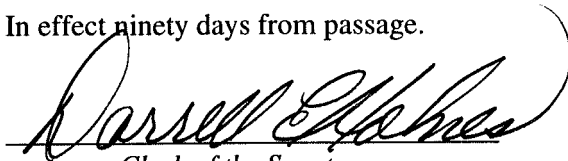
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

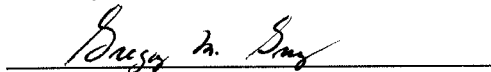

Chairman Senate Committee


Chairman House Committee


Originating in the House.

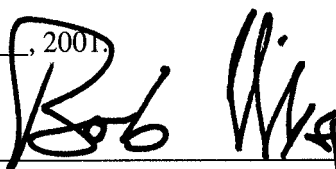
In effect ninety days from passage.


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 2nd day of May, 2001.

Governor

PRESENTED TO THE

GOVERNOR

Date 5/1/01

Time 2:35 pm