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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H. B. 2877

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[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
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.

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

(a) “Municipal public works” or “works” or “projects” means the construction, reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement, increase, equipment, maintenance, repair (including replace-
ments) and operation of jails, jail facilities, municipal buildings, police stations, fire stations, libraries, museums, other public buildings, incinerator plants, land fill or other garbage disposal systems, hospitals, piers, docks, terminals, airports, drainage systems, flood control systems, stormwater systems and associated stormwater management program, flood walls, culverts, bridges (including approaches, causeways, viaducts, underpasses and connecting roadways), public markets, cemeteries, motor vehicle parking facilities (including parking lots, buildings, ramps, curb-line parking, meters and other facilities considered necessary, appropriate, useful, convenient or incidental to the regulation, control and parking of motor vehicles), farms, dormitories, apartments and other housing facilities for the students and faculties of institutions of higher education; facilities providing housing for the elderly, including, but not limited to, life care facilities, congregate living facilities and adult residential facilities, stadiums, gymnasiums, sports arenas, auditoriums, public recreation centers, public recreation parks, swimming pools, roller skating rinks, ice skating rinks, tennis courts, golf courses, polo grounds, or the grading, regrading, paving, repaving, surfacing, resurfacing, curbing, recuring, widening or otherwise improving of any street, avenue, road, alley or way, or the building or renewing of sidewalks, where works or projects will be made self-supporting, and the cost thereof, together with the interest thereon, will be returned within a reasonable period, not exceeding forty years, by means of tolls, fees, rents, special assessments or charges other than taxation; and the terms shall also mean any works or project as a whole, and all integral parts thereof, including all necessary, appropriate, useful, convenient or incidental appurtenances and equipment in connection with any one or more of the above.

(b) “Stormwater systems” means a stormwater system in its entirety or any integral part thereof used to collect and dispose of stormwater and an associated stormwater management program. It includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet
including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations. The term "stormwater systems" shall not include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

(c) "Stormwater management program" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and shall include, but not be limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law. The term "stormwater management program" shall not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

PART III. GENERAL POWERS AND AUTHORITY.

§8-16-5. Powers of board.

The board shall have plenary power and authority to take all steps and proceedings, and to make and enter into all contracts or agreements necessary, appropriate, useful, convenient or incidental to the performance of its duties and the execution of its powers and authority under this article: Provided, That any contract or agreement relating to the financing, or the construction, reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement, increase, equipment, operation or maintenance of any such works, and any trust indenture with respect thereto as hereafter provided for, shall be approved by the governing body or bodies.
The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board may direct. All compensation and expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any power or authority herein given it so as to bind said board or any municipality beyond the extent to which money shall have been, or may be provided under the authority of this article.

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

After the construction, reconstruction, establishment, acquisition, renovation or equipment of any such works, the board shall maintain, operate, manage and control the same, and may order and complete any improvements, extensions, enlargements, increase or repair (including replacements) of and to the works that the board may considered expedient, if fundstherefor be available, or are made available, as provided in this article, and shall establish rules for the use, maintenance and operation of the works, and do all things necessary or expedient for the successful operation thereof, and for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, stormwater and surface runoff water quality improvement activities necessary to comply with all federal and state requirements. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as
practicable, if requested so to do by proper authority, out of the 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.

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

When two or more municipalities take joint action under the provisions of this article, the rates, fees or charges shall be established by each participating municipality, with the concurrence of the other participating municipality or municipalities as to the amount of the rates, fees or charges, and such rates, fees or charges may be the same with respect to each municipality, or they may be different.

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

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

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

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

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

The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional class of users or property thereafter served which fall
within the same class, without the necessity of any hearing or notice. Any change or adjustment of rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as provided in this section. The aggregate of the rates, fees or charges shall always be sufficient for the expenses of repair (including replacements), maintenance and operation, and for the sinking fund payments.

If any rate, fee or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent and reasonable attorney's fees, may be recovered by the board in a civil action in the name of the municipality or municipalities, and in the case of rates, fees or charges due for services rendered, such rates, fees or charges, if not paid when due, may, if the governing body so provide in the ordinance provided for under section seven of this article, constitute a lien upon the premises served by such works, which lien may be foreclosed against such lot, parcel of land or building so served, in accordance with the laws relating to the foreclosure of liens on real property. Upon failure of any person receiving any such service to pay for the same when 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.

(a) The municipality or municipalities issuing such bonds shall be subject to the same rates, fees or charges established as provided in this article, or to rates, fees or charges established in harmony therewith, for service rendered to the municipality or municipalities and shall pay such rates, fees or charges, when due, from corporate funds, and the same shall be considered to be a part of the revenues of the works as defined in this article, and may be applied as provided in this article, for the application of such revenue.
(b) The municipality or municipalities and any county, state and federal government served by the services of the stormwater system shall be subject to the same rates, fees or charges established as provided in this article for stormwater services, or to rates, fees or charges established in harmony therewith, for service rendered to the governmental entity and shall pay such rates, fees or charges, when due, from corporate funds, and the same is considered to be a part of the revenues of the works as defined in this article, and may be applied as provided in this article, for the application of such revenue. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

ARTICLE 20. COMBINED SYSTEMS.

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

(a) Any municipality may acquire, construct, establish and equip and thereafter repair, maintain and operate a combined waterworks, sewerage and stormwater system either wholly within or partly within and partly without the corporate limits thereof under the provisions of this article, and any municipality owning and operating a waterworks and sewerage system, but not a stormwater system, may acquire, construct, establish and equip the stormwater system which it does not then own and operate, and such municipality may provide by ordinance that when such stormwater system shall have been acquired, constructed, established and equipped, the same shall thereafter be owned, repaired, maintained and operated as a combined undertaking under the provisions of this article, and any municipality already owning and operating an existing waterworks system, sewerage system, and stormwater system, may by ordinance combine the same into a single undertaking under the provisions of this article. However, no municipality may acquire, construct, establish and equip or thereafter repair, maintain and
operate a combined waterworks, sewerage and stormwater system which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

(b) Any municipality which has combined its waterworks, sewerage system and stormwater systems under the provisions of this article, or pursuant to the provisions of any other law, may hereafter construct extensions, additions, betterments and improvements to any of the systems, any combination thereof, or all of the waterworks, sewerage and stormwater systems of said combined waterworks, sewerage and stormwater system, and may finance the acquisition, construction, establishment and equipment thereof, or the construction or extensions, additions, betterments and improvements thereof by the issuance of revenue bonds under the provisions of this article.

(c) Notwithstanding the provisions of any other law or charter to the contrary, any such municipality may serve and supply the area included within twenty miles outside its corporate limits with either the water, sewer or stormwater services, any combination of such services or all such services, of its combined waterworks, sewerage and stormwater system; provided that such water, sewer or stormwater services and facilities shall not be served or supplied within the corporate limits of any municipality without the consent of the governing body of such municipality: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

(d) As used in this article, the following terms shall have the following meanings unless the text clearly indicates otherwise.

(1) "Stormwater system" means a stormwater system in its entirety or any integral part thereof used to collect and dispose
of stormwater and an associated stormwater management program. It includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet, including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage ways, easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations. The term "stormwater system" shall not include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

(2) "Combined waterworks, sewerage and stormwater system" means a waterworks, sewerage and stormwater system which a municipality determines by ordinance to operate in combination.

(3) "Combined system" means either a combined waterworks, sewerage and stormwater system, or a combined waterworks and sewerage system.

(4) "Stormwater management program" means those activities associated with the management, operation and maintenance and control of stormwater and stormwater systems, and shall include and not be limited to public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law. The term "stormwater management program" shall not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

§8-20-1b. Cooperation with other governmental units.
In carrying out any lawful purpose prescribed by this article, any municipality may, in the exercise of its powers, duties and responsibilities, cooperate or join with the state of West Virginia or any political subdivision, agency, board, commission, office or department thereof, however designated, or with the United States of America or any agency or department thereof.

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

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

(a) An ordinance is enacted by the governing body of the municipality severing the combined system into separate systems.

(b) If revenue bonds or notes or other obligations with a lien on or pledge of the revenues of said combined system, or any part thereof, are outstanding, then the municipality must provide in said ordinance that the severance of the combined system is not effective until all such outstanding revenue bonds or notes or other obligations with a lien on or pledge of the revenues of the system, or any part thereof, are paid and the method for paying said outstanding revenue bonds or notes or other obligations. For the purposes of this section, said municipality may provide for payment of said outstanding revenue bonds or notes or other obligations by:

(1) Depositing moneys and funds with the West Virginia municipal bond commission or in escrow with a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the state of West Virginia selected by the issuer to pay interest when due and to pay principal when due, whether at maturity or earlier redemption;
(2) Depositing securities with the municipal bond commission or said escrow trustee, the principal of and earnings on which will provide moneys sufficient to pay interest when due and to pay principal when due, whether at maturity or earlier redemption; or

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

(c) If the combined system is under the supervision and control of a separate committee, board or commission, then the governing body of the municipality must provide for the dissolution of the committee, board or commission, and the creation of other committees, boards or commissions as may be required by law.

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

For the purpose of acquiring, constructing, establishing or extending any system within a combined system, or a combined system, or for the purpose of constructing any additions, betterments or improvements to any system within a combined system, or a combined system, or for the purpose of acquiring any property necessary, appropriate, useful, convenient or incidental for or to any system within a combined system, or combined system, under the provisions of this article, the municipality shall have the right of eminent domain as provided in chapter fifty-four of this code: Provided, That such right of eminent domain for the acquisition of a complete privately owned waterworks system may not be exercised without prior approval of the public service commission, and in no event shall any municipality construct, establish or extend beyond the corporate limits of the municipality a municipal waterworks system or a combined system under the provisions of this article to supply service in competition with an existing privately or municipally owned waterworks system or combined system in the municipality or within the proposed extension of the system, unless,
except in the case of a stormwater system, a certificate of public convenience and necessity therefor shall have been issued by the public service commission: Provided, however, that the power of eminent domain provided in this section shall not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

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

The governing body of any municipality availing itself of the provisions of this article shall adopt an ordinance describing in a general way the contemplated project. If it is intended to include in the combined system any existing waterworks system or any existing sewerage system, or both, or if applicable, any existing stormwater system, or any of them, or all of them, the ordinance shall provide that it or they be so included in the combined system and shall describe in a general way such existing waterworks or sewerage system or both, or, if applicable, any existing stormwater system, or any of them, or all of them, to be included in the combined system. The ordinance shall state the means provided for refunding any obligations unpaid and outstanding payable solely from the revenues of any such waterworks or sewerage system, or both, or if applicable, any existing stormwater system, or any of them, or all of them. The ordinance shall determine the period of usefulness of the contemplated project.

If it is intended to acquire, construct, establish and equip a combined system or any part thereof, or to construct extensions, additions, betterments and improvements to either the waterworks system or the sewerage system of the combined system, or both, or if applicable, any existing stormwater system, or any of them, or all of them, the ordinance shall describe in a general way the works or property or system to be acquired, constructed, established or equipped or the extensions, additions, betterments and improvements to be constructed.
The ordinance shall fix the amount of revenue bonds proposed to be issued, the interest rate or rates, and any other details in connection with the bonds considered advisable. The ordinance may state that the bonds, or such ones thereof as may be specified, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to principal and interest and the security thereof, to such other bonds as are designated in the ordinance.

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

For the purpose of defraying the cost of acquisition, construction, establishment or equipment of any system within a combined system, or a combined system, and for the purpose of paying the cost of constructing any extensions, additions, betterments or improvements to any of the systems of said combined system, or all of them, any such municipality may issue revenue bonds under the provisions of this article.

All such bonds may be authorized, issued and sold pursuant to ordinance in installments at different times or an entire issue or series may be sold at one time. Such bonds shall bear interest at a rate not to exceed twelve percent per annum, payable at such times, and shall mature within the period of usefulness of the project involved, to be determined by the governing body and in any event within a period of not more than forty years. The bonds may be in denomination or denominations, may be in such form, either coupon or registered, may carry registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to terms of redemption, with or without a premium, may be declared to become due before the maturity date thereof, may provide for the replacement of mutilated, destroyed, stolen or lost bonds, may be authenticated in such manner and upon compliance with such conditions, and may contain other terms and covenants, as may be provided by ordi-
nance of the governing body of the municipality. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes.

The bonds and the interest thereon, together with all properties and facilities of the municipality owned or used in connection with the combined system, and all the moneys, revenues and other income of such municipality derived from the combined system shall be exempt from all taxation by this state or any county, municipality, political subdivision or agency thereof. Bonds may be sold in such manner as the governing body shall determine. If any bonds shall be issued to bear interest at a rate of twelve percent per annum, the price at which they may be sold shall be such that the interest cost to the municipality of the proceeds of the bonds may not exceed thirteen percent per annum computed to maturity according to the standard table of bond values.

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

In case any officer whose signature appears on the bonds or coupons attached thereto shall cease to be such officer before the delivery of the bonds to the purchaser, such signature shall nevertheless be valid and sufficient for all purposes, with the same effect as if he or she had remained in office until the delivery of the bonds. All signatures on the bonds or coupons and the corporate seal may be mechanically reproduced if authorized in the ordinance authorizing the issuance of the bonds. The bonds shall have all the qualities of negotiable instruments under the laws of this state.

Whenever a waterworks and sewerage system or storm-water system, if applicable, is included in a combined system
under the provisions of this article and there are unpaid and
outstanding revenue bonds or any other obligations or securities
previously issued which are payable solely from the revenues of
the waterworks or the sewerage system or stormwater system, if
applicable, or any part thereof, such outstanding bonds, obliga-
tions or securities may be refunded by the issuance and sale or
exchange therefor of revenue bonds to be issued under the pro-
visions of this article.

Whenever any outstanding bonds, obligations or securities
previously issued which are payable solely from the revenues of
any waterworks or sewerage system, or stormwater system, if
applicable, included in a combined system under the provisions
of this article are refunded and the refunding is to be accom-
plished by exchange, such outstanding bonds, obligations or
securities shall be surrendered and exchanged for revenue
bonds of such combined system of a total principal amount
which shall not be more and may be less than the principal
amount of the bonds, obligations or securities surrendered and
exchanged plus the interest to accrue thereon to the date of
surrender and exchange, and if the refunding is to be accom-
plished through the sale of revenue bonds of such combined
system the total principal amount of such revenue bonds which
may be sold for refunding purposes shall not exceed the prin-
cipal amount of the bonds, obligations or securities being re-
funded plus the interest to accrue thereon to the retirement date
or the next succeeding interest payment date, whichever date
may be earlier.

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

§8-20-6. Bonds payable solely from revenues; not to constitute
municipal indebtedness.
Bonds issued under the provisions of this article shall be payable solely from the revenues derived from the combined system, and the bonds may not in any event constitute an indebtedness of such municipality within the meaning of any constitutional or statutory provision or limitation and it shall be plainly stated on the face of each bond that the same has been issued under the provisions of this article, and that it does not constitute an indebtedness of the municipality within any constitutional or statutory provision or limitation. The ordinance authorizing the issuance of the bonds may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be considered necessary or advisable for the assurance of payment of the bonds thereby authorized and as may thereafter be issued.

§8-20-7. Lien of bondholders.

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

Any municipality in acquiring an existing waterworks system may provide that payment therefor shall be made by issuing revenue bonds and delivering the same at such prices as may be agreed upon within the limitations prescribed in section five hereof. Any revenue bonds so issued in payment for an existing waterworks system shall for all purposes be regarded as partaking of the nature of and as being secured by a purchase money mortgage upon the property so acquired; and the holders thereof shall have, in addition to any other remedies and rights prescribed by this article, remedies and rights as may now or hereafter exist in law in the case of purchase money mortgages.
§8-20-8. Covenants with bondholders.

Any ordinance authorizing the issuance of bonds hereunder, or any trust indenture with any banking institution or trust company, within or without the state, for the security of said bonds, which any municipality is hereby empowered and authorized to enter into and execute, may contain covenants with the holders of the bonds as to:

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

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

(c) The fixing, establishing and collecting of rates, fees or charges for the use of the services and facilities of the combined system, including the parts thereof heretofore or hereafter acquired, constructed, established, extended, equipped, added to, bettered or improved and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of repair, maintenance and operation of such combined system, the payment of the principal of and interest upon all bonds or other obligations payable from the revenues of such combined system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of bonds;

(d) The transfer from the general funds of the municipality to the account or accounts of the combined system of an amount
equal to the cost of furnishing the municipality or any of its
departments, boards or agencies with the services and facilities
of such combined system;

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

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

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

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

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

Any ordinance or trust indenture may also contain other
additional covenants as shall be considered necessary or desir-
able for the security of the holders of bonds issued under the
provisions of this article, notwithstanding that other covenants
are not expressly enumerated above, it being the intention
hereof to grant to municipalities plenary power and authority to
make any and all covenants or agreements necessary in order to
secure greater marketability for bonds issued hereunder as fully
and to the same extent as covenants or agreements could be
made by a private corporation rendering similar services and
facilities and to grant to municipalities full and complete power
and authority to enter into any contracts, covenants or agree-
ments with holders of bonds issued hereunder not inconsistent
with the constitution of this state.


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

(a) The governing body of any municipality availing itself
of the provisions of this article shall have plenary power and
authority to make, enact and enforce all needful rules and regulations for the repair, maintenance and operation and management of the combined system of such municipality and for the use thereof, and shall also have plenary power and authority to make, enact and enforce all needful rules and regulations and ordinances for the care and protection of any such system, which may be conducive to the preservation of the public health, comfort and convenience and to rendering the water supply of such municipality pure, the sewerage harmless insofar as it is reasonably possible so to do, and if applicable properly collecting and controlling the stormwater as is reasonably possible so to do: Provided, That no municipality may make, enact or enforce any rule, regulation or ordinance regulating any highways, road or drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways except in accordance with chapter twenty-nine-a of this code.

Any municipality shall have plenary power and authority to charge the users for the use and service of combined system and to establish rates, fees or charges for such purpose. Separate rates, fees or charges may be fixed for the water and sewer services respectively, and, if applicable, the stormwater services, or combined rates, fees or charges for the combined water and sewer services, and, if applicable, the stormwater services. Such rates, fees or charges, whether separate or combined, shall be sufficient at all times to pay the cost of repair, maintenance and operation of the combined system, provide an adequate reserve fund and adequate depreciation fund and pay the principal of and interest upon all revenue bonds issued under this article. Rates, fees or charges shall be established, revised and maintained by ordinance and become payable as the governing body may determine by ordinance, and such rates, fees or charges shall be changed from time to time as needful, consistent with the provisions of this article.

(b) Whenever any rates, fees or charges for services or facilities furnished remain unpaid for a period of thirty days
after the same become due and payable, the user of the services
and facilities provided shall be delinquent and the user shall be
held liable at law until such time as all rates, fees and charges
are fully paid.

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

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

(e) No municipality may foreclose upon the premises
served by it for delinquent rates, fees or charges for which a lien
is authorized by this section except through the bringing and
maintenance of a civil action for the purpose brought in the
circuit court of the county wherein the municipality lies. In
every such action, the court shall be required to make a finding
based upon the evidence and facts presented that the municipal-
ity had exhausted all other remedies for the collection of debts
with respect to such delinquencies prior to the bringing of the action. In no event shall foreclosure procedures be instituted by any municipality or on its behalf unless the delinquency had been in existence or continued for a period of two years from the date of the first delinquency for which foreclosure is being sought.

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

Any municipality shall also have plenary power and authority, and may covenant with the holders of any bonds issued hereunder, to shut off and discontinue the supplying of the water service of the combined system for the nonpayment of the rates, fees or charges for said water service or sewer service, or both, or, if applicable, stormwater service, or any combination thereof, or all of them.

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

The municipality and any county government, state government and federal government served by the services of the combined system shall be subject to the same rates, fees or charges established in this article or to rates, fees or charges established in harmony therewith, for service rendered to the governmental entity, and shall pay such rates, fees or charges when due from corporate funds and the same shall be considered to be part of the revenue of the combined system as defined in this article, and be applied as provided in this article, for the application of such revenues. However, no rates, fees or charges for combined services or stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

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

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


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

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

Any holder of any bonds issued under the provisions of this 
article or of any coupons representing interest accrued thereon 
may by civil action, mandamus or other proper proceeding 
enforce the statutory mortgage lien created and granted in sec-
tion seven of this article, protect and enforce any and all rights
granted hereunder or under any such ordinance or trust indenture, and may enforce and compel performance of all duties required by the provisions of this article or by any ordinance or trust indenture to be performed by the municipality or by the governing body or any officer, including the making and collecting of reasonable and sufficient rates, fees or charges for services rendered by the combined system.

If there be default in the payment of the principal of or interest upon any of bonds, or of both principal and interest, any court having jurisdiction shall appoint a receiver to administer said combined system on behalf of the municipality, and the bondholders or trustee, or both, with power to charge and collect rates, fees or charges sufficient to provide for the retirement of the bonds and pay the interest thereon, and for the payment of the repair, maintenance and operation expenses, and the receiver shall apply the revenues in conformity with the provisions of this article and the ordinance pursuant to which the bonds have been issued or trust indenture, or both.


Any municipality is hereby empowered and authorized to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition, construction, establishment, extension or equipment of combined systems and the construction of additions, betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said combined system or grants to the municipality from any agency of the state or
from the United States of America or any federal or public
to enter into the necessary con-
and to enter into the necessary con-
tracts and agreements to carry out the purposes hereof with any
agency of the state, the United States of America or any federal
or public agency or department of the United States, or with any
private agency, corporation or individual. Any other provisions
of this article notwithstanding, interest on any loans or tempo-
rary advances may be paid from the proceeds thereof until the
maturity of the notes or other negotiable instrument.

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

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

This article is, without reference to any other statute or
charter provision, full authority for the acquisition, construction,
establishment, extension, equipment, additions, betterment,
repair, maintenance and operation of or to the
combined system herein provided for and for the issuance and
sale of the bonds by this article authorized, and is an additional
and alternative method therefor and for the financing thereof,
and no petition, referendum or election or other or further pro-
ceeding with respect to any undertaking or to the issuance or
sale of bonds under this article and no publication of any resolu-
tion, ordinance, notice or proceeding relating to any undertak-
ing or to the issuance or sale of such bonds is required, except
as prescribed by this article, any provisions of other statutes of
the state to the contrary notwithstanding: Provided, That all
functions, powers and duties of the bureau of public health and
the division of environmental protection remain unaffected by
this article: Provided, however, that no municipality may ac-
quire, construct, establish, extend, repair or equip or thereafter
repair, maintain and operate a combined waterworks, sewerage
or stormwater system which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

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

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

(a) As an alternative to the procedure provided in this article, any municipality is hereby empowered and authorized to acquire, construct, establish, extend, equip, repair, maintain and operate a combined system or to construct, maintain and operate additions, betterments and improvements thereto, whether acquired, constructed, established, extended or equipped under the provisions of this article or not, and to collect the revenues therefrom for the services rendered thereby, through the supervision and control of a committee, by whatever name called, composed of all or of a portion of the governing body, or of a board or commission appointed by the governing body, as may be provided by the governing body, and if such alternative is followed, said committee, board or commission shall have and be limited to all the powers, authority and duties granted to and imposed upon a board as provided in article sixteen of this chapter.

However, no municipality may acquire, construct, establish, extend, repair or equip or thereafter repair, maintain and operate a combined waterworks, sewerage or stormwater system, which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.
In the event that the waterworks or sewerage system or both, or if applicable, stormwater services, are in existence prior to the creation of the combined system, and the waterworks or sewerage system or both, and if applicable, stormwater services, are supervised and controlled by a committee, board or commission, and the alternative provided for in subsection (a) of this section is to be followed with respect to the supervision and control of the combined system, the governing body may by ordinance, after the creation of the combined system, provide:

1. The manner of and procedure for transferring supervision and control from each separate committee, board or commission to the committee, board or commission which is supervising and controlling the combined system; or

2. The manner of and procedure for combining each separate committee, board or commission into one committee, board or commission and transferring thereto supervision and control 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.

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

1. A sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of
such municipal corporation and/or sanitary district, including
acquisition of the municipal sewerage system resulting from the
severance of a combined system pursuant to section one-b,
article twenty, chapter eight of this code; and

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

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

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

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

(e) No municipal corporation or sanitary district may ac-
quire, construct, establish, extend, repair or equip or thereafter
repair, maintain and operate a combined waterworks, sewerage
or stormwater system, which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

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

(a) The construction, acquisition, improvement, equipment, custody, operation and maintenance of any works for the collection, treatment or disposal of sewage and, in addition, for the collection and control of stormwater and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen of this article.

(b) As used in this article, the following terms shall have the following meanings unless the text clearly indicates otherwise.

(1) “Board” means the sanitary board as set up in section eighteen of this article.

(2) “Governing body” means the mayor and council or other legally constituted governing body of any municipality.

(3) “Municipality” means any municipal corporation, incorporated city, town, village or sanitary district in the state of West Virginia.

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

(5) “Stormwater system” or “stormwater works” means a stormwater system in its entirety or any integral part thereof used to collect and dispose of stormwater and an associated stormwater management program. It includes all facilities,
structures and natural water courses used for collecting and
conducting stormwater to, through and from drainage areas to
the points of final outlet, including, but not limited to, any and
all of the following: Inlets, conduits, corals, outlets, channels,
ponds, drainage easements, water quality facilities, catch basins,
ditches, streams, gulches, flumes, culverts, syphons, retention or
detention basins, dams, floodwalls, levies, pipes, flood control
systems and pumping stations, and associated stormwater man-
agement program. The term "stormwater system" and "storm-
water works" shall not include highways, road and drainage
easements, and/or stormwater facilities constructed, owned
and/or operated by the West Virginia Division of Highways.

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

(7) "Works" means sewage works and stormwater works
either separately or collectively.

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

The board shall have power to take all steps and proceed-
ings and to make and enter into all contracts or agreements
necessary or incidental to the performance of its duties and the
execution of its powers under this article: Provided, That any
contract relating to the financing of the acquisition or construc-
tion of any works, or any trust indenture as provided for, shall be approved by the governing body of the municipality before the same shall be effective.

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

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

After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may consider expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers, stormwater conduits, and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof, including, but not limited to, those activities necessary to comply with all federal and state requirements, including stormwater and surface runoff water quality improvement activities.
The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for the expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition. As nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article.

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

Nothing in this article contained shall be so construed as to authorize or permit any municipality to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this article. Funds for the payment of the entire cost of any of the works referred to in this article, exclusive of any portions of the cost that may be defrayed out of any grant or contribution, shall be provided by the issuance of revenue bonds of the municipality, the principal and interest of which shall be payable solely from the fund herein provided for the payment, and the bonds may not, in any respect, be a corporate indebtedness of the municipality, within the meaning of any statutory or constitutional limitations thereon. All the details of the bonds shall be determined by ordinance or ordinances of the municipality.

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

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

(a) Sewerage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage
system of the municipality, or that in any way uses or is served by such works; and

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

The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

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

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

After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates, fees or charges, shall be given by publication as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing.
After such hearing, which may be adjourned from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates, fees and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

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

All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, however, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of thirty days after the same shall become due and payable, the property
and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all rates, fees and charges are fully paid.

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

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

The municipality and any county government, state government and federal government served by the services of the works shall be subject to the same fees, charges and rates established as provided in this article, or to fees, charges and rates established in harmony therewith, for service rendered the municipality, county, state or federal government and shall pay such rates, fees or charges when due from corporate funds and the same shall be considered to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of the revenues. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

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

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided.
Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the municipality served by the board.

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

The members of the sanitary board shall receive compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and trea-
surer in its discretion, and shall fix the amounts of bond to be
given by the treasurer. All compensation, together with the
expenses in this section referred to, shall be paid solely from
funds provided under the authority of this article. The sanitary
board shall have power to establish bylaws, rules and regula-
tions for its own government.

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

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

The lessee shall by ordinance have power to establish,
change and adjust rates, fees and charges for the service ren-
dered therein by the works against the owners of the premises
served, in the manner hereinbefore provided for establishing,
changing and adjusting rates, fees and charges for the service
rendered in the municipality where the works are owned and
operated, and such rates, fees or charges shall be collectible and
shall be a lien as herein provided for rates, fees and charges
made by the owner.
The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any contract shall, if so provided in said ordinance or trust indenture, be considered to be a part of the revenues of the works as in this article defined and be applied as herein provided for the application of the revenues.

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

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for twenty miles outside the corporate limits thereof: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

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

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

Said bonds and the interest thereon, together with all properties and facilities of said municipality owned or used in connection with the works, and all the moneys, revenues and other income of such municipality derived from such works shall be
exempt from all taxation by the state of West Virginia or any
county, municipality, political subdivision or agency thereof.

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

Any resolution authorizing the issuance of bonds hereunder, or any trust indenture with any bank or trust company within or without the state, for the security of the bonds, may contain covenants with the holders of such bonds as to:

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

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

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

(d) The transfer from the general funds of the municipality to the account or accounts of such sewerage system or storm-
water system of an amount equal to the cost of furnishing the
municipality or any of its departments, boards or agencies with
the services and facilities of such sewerage system or storm-
water system;

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

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

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

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

(i) The keeping of books of account, relating to such undertakings and the audit and inspection thereof, and the furnishing
to the holders of bonds issued hereunder or their representa-
tives, reports prepared, certified, or approved by accountants
designated or approved by the holders of bonds issued hereun-
der;
(j) Such other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that other covenants are not expressly enumerated hereunder, it being the intention hereof to grant to the municipalities the power to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant such municipalities full and complete power to enter into any contracts, covenants or agreements with holder of bonds issued hereunder not inconsistent with the constitution of the state of West Virginia.

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

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the director of the division of environmental protection or the environmental quality board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates, fees or charges for the use of the services and facilities of the existing sewer system and/or stormwater system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system or stormwater system, or that in any way uses or is served thereby, and may change and readjust such rates, fees or charges from time to time.

Such rates, fees or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the
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acquisition and construction of plants, machinery and works for
the collection and/or treatment, purification and disposal of
sewage or stormwater, and the repair, alteration and extension
of existing sewer facilities or stormwater facilities, as may be
necessary to comply with such order of the director of the divi-
sion of environmental protection or the environmental quality
board, and for the operation, maintenance and repair of the
total works and system.

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

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

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

After introduction of the ordinance fixing rates, fees or
charges, and before the same is finally enacted, notice of such
hearing, setting forth the proposed schedule of rates, fees or
charges, shall be given by publication of notice as a Class II-O
legal advertisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication area
for such publication is the municipality. The first publication
shall be made at least ten days before the date fixed therein for
the hearing.
After such hearing, which may be adjourned from time to time, the ordinance establishing the rates, fees or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of the rates, fees and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

Any change or readjustment of rates, fees or charges may be made in the same manner as rates, fees or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required.

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

Any municipal corporation exercising the powers given herein has authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with the order of the director of the division of environmental protection or the environmental quality board, and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: Provided, however, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and mainte-
nance of any plants, machinery or works in compliance with an
order of the director of the division of environmental protection
or the environmental quality board, and the rights, powers, and
duties of the municipal corporation and the respective officers
and departments thereof, including the sanitary board, are gov-
erned by the provisions of this article: Provided, further, That
the jurisdiction and authority provided by this section does not
extend to highways, road and drainage easements, and/or storm-
water facilities constructed, owned and/or operated by the West
Virginia Division of Highways and no rates, fees or charges for
stormwater services or costs of compliance may be assessed
against highways, road and drainage easements, and/or storm-
water facilities constructed, owned and/or operated by the West
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 April, 2001.

Governor