WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 243

(SENATORS McCabe, Caruth, Plymale
AND Prezioso, original sponsors)

[Passed April 10, 2009; in effect ninety days from passage.]
AN ACT to repeal §13-1-18 of the Code of West Virginia, 1931, as amended; and to amend and reenact §13-1-4, §13-1-14, §13-1-15, §13-1-15a, §13-1-16, §13-1-17, §13-1-19 and §13-1-21 of said code, all relating to updating the code for consistency with the current practices and procedures required for issuing general obligation bonds through competitive sale and the West Virginia Constitution; providing that the issuer is not required to designate the series of bonds in the election order; providing that the bond resolution does not have to set forth the date of issuance, the denominations of the bonds, the medium with which the bonds are payable or the terms of redemption; allowing issuers to establish a maximum rate of interest in the bond resolution; allowing issuers to make semiannual payments on principal and interest; lengthening the time an issuer is required to begin making debt service payments by
a year from the date of issuance; requiring issuers to register bonds and eliminating reference to coupon bonds; allowing issuers to accept electronic bids; and allowing an issuer to publish an abbreviated sale of notice when advertising the sale of bonds.

Be it enacted by the Legislature of West Virginia:

That §13-1-18 of the Code of West Virginia, 1931, as amended, be repealed; and that §13-1-4, §13-1-14, §13-1-15, §13-1-15a, §13-1-16, §13-1-17, §13-1-19 and §13-1-21 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.

§13-1-4. Bond issue proposal to be submitted to voters; election order.

No debt shall be contracted or bonds issued under this article until all questions connected with the same are first submitted to a vote of the qualified electors of the political division for which the bonds are to be issued, and receive three fifths of all the votes cast for and against the same: Provided, That a county board of education may contract indebtedness and issue bonds for public school purposes when submitted to a vote of the people of the county if the question of contracting indebtedness and issuing bonds is approved by a majority of all the votes cast for and against the same pursuant to section ten, article X of the constitution. The governing body of any political division referred to in this article may, and when requested so to do by a petition in writing, praying that bonds be issued and stating the purpose and amount thereof, signed by legal voters of the political division equal to twenty percent of the votes cast in a county for Governor, or in a municipal corporation or school district for mayor or member of the board of education, as the case may be, shall, by order entered of record, direct that an election be held for the purpose of submitting to the voters of the political division
all questions connected with the contracting of debt and
the issuing of bonds. The order shall state:

(a) The necessity for issuing the bonds or, if a petition
has been filed as provided herein, that the petition has
been filed;

(b) If for the construction of a county-district road or
bridge thereon, a summary of the engineer's report pro-
vided for in the following section setting forth the approx-
imate extent and the estimated cost of the proposed
improvement and the kind or class of work to be done
thereon;

(c) Purpose or purposes for which the proceeds of bonds
are to be expended;

(d) Valuation of the taxable property as shown by the
last assessment thereof for state and county purposes;

(e) Indebtedness, bonded or otherwise;

(f) Amount of the proposed bond issue;

(g) Maximum term of bonds;

(h) Maximum rate of interest;

(i) Date of election;

(j) That the levying body is authorized to lay a suffi-
cient levy annually to provide funds for the payment of the
interest upon the bonds and the principal at maturity and
the approximate rate of levy necessary for this purpose;

(k) In the case of school bonds, that the bonds, together
with all existing bonded indebtedness, will not exceed in
the aggregate five percent of the value of the taxable
property in the school district ascertained in accordance
with section eight, article X of the constitution; and that
the bonds will be payable from a direct annual tax levied
Enr. Com. Sub. for S. B. No. 243] 4

and collected in each year on all taxable property in the
school district sufficient to pay the principal and the
interest maturing on the bonds in that year, together with
any deficiencies for prior years, within, and not exceeding
thirty-four years, which tax levies will be laid separate
and apart and in addition to the maximum rates provided
for tax levies by school districts on the several classes of
property in section one, article X of the constitution, but
in the same proportions as the maximum rates are levied
on the several classes of property; and the tax may be
levied outside the limits fixed by section one, article X of
the constitution.

Any other provision which does not violate any provi-
sion of law, or transgress any principle of public policy,
may be incorporated in the order.

§13-1-14. Resolution authorizing issuance and fixing terms of
bonds.

1. If the required amount of all the votes, pursuant to
section four of this article, cast for and against the propo-
sition to incur debt and issue negotiable bonds is in favor
of the same, the governing body of the political division
shall, by resolution, authorize the issuance of the bonds in
an amount not exceeding the amount stated in the propo-
sition; establish the maximum rate or rates of interest
which the bonds shall bear within the maximum rate
stated in the proposition submitted to vote; require that
the bonds shall be made payable at the office of the
Municipal Bond Commission and at any other place or
places as the body issuing the same designates; provide for
a sufficient levy to pay the annual interest on the bonds
and the principal at maturity; fix the times within the
maximum period, as contained in the proposition submit-
ted to vote, when the bonds shall become payable, which
shall not exceed thirty-four years from the date thereof;
determine whether all or a portion of the bonds will be
subject to redemption prior to the maturity thereof; and
precribe a form for executing the bonds authorized.

§13-1-15. Bonds to be payable in annual or semiannual installments.

Bonds shall be made payable in annual or semiannual installments beginning not more than three years after the date thereof and the amount payable in each year may be so fixed that when the annual interest is added to the principal amount to be paid, the total amount payable in each year in which part of the principal is payable shall be as nearly equal as practicable. Once principal payments commence, it shall be an immaterial variance if the difference between the largest and smallest amounts of principal and interest payable annually or semiannually during the term of the bonds shall not exceed five percent of the total authorized issue. Bonds may be payable in annual or semiannual installments beginning not more than three years after the date thereof, each installment being as nearly equal in principal amount as practicable.

§13-1-15a. Bonds may be subject to redemption.

All or a portion of the bonds may be subject to redemption prior to the maturity thereof at the option of the body issuing the same as established by resolution of the governing body authorizing the bonds. The body issuing the bonds may not levy taxes in connection with the redemption of any bonds in excess of the taxes that would have been levied for the payment of principal of and interest on the bonds in any year.

§13-1-16. Recital of certification that bonds are issued in conformity with constitution and statutes; effect thereof with Attorney General's endorsement.

The resolution authorizing the bonds provided for in section fourteen of this article may direct that they contain the following recital:
"It is certified that this bond is authorized by and is issued in conformity with the requirements of the Constitution and Statutes of the State of West Virginia."

The recital, when the bonds have been endorsed by the Attorney General as provided in section twenty-eight of this article, are considered an authorized declaration by the governing body of the political division and to import that there is constitutional and statutory authority for incurring the debts and issuing the bonds; that all the proceedings therefor are regular; that all the acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the bonds have existed, happened and been performed in due time, form and manner as required by law; that the amount of the bond and the issue of which it forms a part, together with all other indebtedness, does not exceed any limit or limits prescribed by the constitution or statutes of this state; and that all questions connected with incurring the debt and issuing the bonds have been first submitted to a vote of the people and have received the required amount of all the votes, pursuant to section four of this article, cast for and against the same at an election regularly called and held for the purpose after notice published and posted in the manner required by law. If any bond be issued containing the recital, and also containing the endorsement of the Attorney General as aforesaid, it shall be conclusively presumed that the recital, construed according to the import hereby declared, is true and neither the political division nor any taxpayer thereof shall be permitted to question the validity or regularity of the obligation in any court or in any action or proceeding.

§13-1-17. Bonds shall be registered.

The bonds issued hereunder shall be issued only in fully registered form and shall carry registration privileges as set forth in the resolution authorizing the bonds.

1 All bonds issued under this article by any county shall be signed by the president of the county commission and countersigned by the clerk of the county commission; bonds issued by any municipality shall be signed by the mayor or other chief executive and countersigned by the clerk, recorder or secretary; bonds issued by a county board of education shall be signed by the president of the board of education and countersigned by the secretary thereof. The seal of the political division shall be affixed to the bonds. The delivery of any bonds so executed at any time thereafter shall be valid, although before the date of delivery the person signing the bonds shall have ceased to hold office.


1 The governing body of the political division issuing bonds pursuant to this article shall sell the same and collect the proceeds, which proceeds shall be deposited with its treasurer. The governing body of the political division shall advertise such bonds for sale, on sealed bids or electronic bids if the governing body elects to utilize an electronic bidding procedure, which advertisement shall be published as a Class II 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 the political division. The first publication shall be made at least fourteen days before the date fixed for the reception of bids. The advertisement shall also be published in the Bond Buyer or similar publication and the advertisement may be published electronically: Provided, that all advertisements required by this section may consist of an abbreviated notice of the sale of the bonds. The governing body may reject any and all bids. If the bonds are not sold pursuant to the advertisement, they may, within one hundred twenty days after the date
advertised for the reception of bids, be sold by the governing body at private sale, but no private sale shall be made at a price less than the highest bid which is received. If not sold, the bonds shall be readvertised in the manner herein provided. In no event shall bonds be sold for less than their par value.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 8th Day of March, 2009.

Governor