

HB 4309

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OFFICE OF THE
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010



ENROLLED

House Bill No. 4309

(By Delegate Michael)



Passed February 23, 2010

In Effect From Passage

E N R O L L E D

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H. B. 4309

OFFICE OF THE CLERK
SECRETARY OF STATE

(BY DELEGATE MICHAEL)

[Passed February 23, 2010; in effect from passage.]

AN ACT to authorize the Town of Moorefield, the Hardy County Commission, and Hardy County's largest corporate user of public wastewater facilities to construct and maintain a state of the art regional wastewater treatment plant, transmission lines and collection facilities for the purpose of collecting, transporting and treating the wastewater from the Town of Moorefield and the unincorporated areas of Hardy County; authorizing the town, the county commission and Hardy County's largest corporate user of public wastewater facilities to create the Moorefield/Hardy County Wastewater Authority to assume ownership of the facilities; membership; powers and duties; board of directors; bylaws; rules; support, maintenance and operation; funds; and severability.

Be it enacted by the Legislature of West Virginia:

**MOOREFIELD/HARDY COUNTY WASTEWATER
AUTHORITY.**

§1. Town of Moorefield, Hardy County Commission and Hardy County's largest corporate user of public wastewater facilities authorized to create and join the Moorefield/Hardy County Wastewater Authority; powers and duties generally.

1 In recognition of the mutual interest of the Town of
2 Moorefield, the county commission of Hardy County, and
3 Hardy County's largest corporate wastewater producer in
4 meeting increasingly stringent wastewater discharge
5 standards, the Town of Moorefield, the county commission
6 of Hardy County, and Hardy County's largest corporate user
7 of public wastewater facilities are hereby authorized and
8 empowered to create a joint endeavor of the three entities and
9 join an authority to be known as the Moorefield/Hardy
10 County Wastewater Authority to own and operate a state of
11 the art regional wastewater treatment plant, transmission
12 lines, collection facilities and associated appurtenances to
13 provide wastewater treatment service for the Town of
14 Moorefield and unincorporated areas of the county. The
15 authority shall have the power and authority to own and
16 operate a wastewater treatment plant, collection facilities,
17 transmission system, and associated appurtenances; to treat
18 and contract for the treatment of wastewater and to provide
19 for the proper maintenance, repair and upgrade to the
20 wastewater system, including the power of eminent domain,
21 to buy, sell or lease real and personal property and to take all
22 other actions as may be necessary to carry out such purposes.
23 The borrowing of money and the notes, bonds and security
24 interests evidencing any borrowing shall be authorized by
25 resolution approved by the authority, shall bear the date or
26 dates, and shall mature at the time or times, in the case of any
27 bonds, as the resolution or resolutions may provide. The
28 notes, bonds and security interests shall bear interest at such
29 rate or rates, be in such denominations, be in the form, either
30 coupon or registered, carry the registration privileges, be
31 executed in the manner, be payable in the medium of
32 payment, at the place or places, and be subject to the terms or
33 conditions of redemption as the resolution or resolutions may
34 provide: *Provided*, That every issue of notes, security
35 interests and bonds shall be limited obligations of the
36 authority payable solely out of any revenues or moneys of the

37 authority, subject only to any agreements with the holders of
38 particular notes, security interests or bonds pledging
39 particular revenues. The notes, security interests and bonds
40 issued by the authority shall be and hereby are made
41 negotiable instruments under the provisions of article eight,
42 chapter forty-six of the Code of West Virginia, 1931, as
43 amended, subject only to the provisions of the notes, security
44 interests or bonds for registration.

**§2. Board of directors; appointment; officers; procedures;
bylaws; rules.**

1 There shall be a board of directors, consisting of five
2 members. One member shall be a sitting member of the
3 Town Council selected by the Town Council; one member
4 shall be a sitting member of the county commission selected
5 by the county commission; one member shall be a
6 representative of Hardy County's largest corporate user of
7 public wastewater facilities and shall be appointed by such
8 corporate user of public wastewater facilities; one member
9 shall be appointed by the Town Council with unanimous
10 consent of the county commission and Hardy County's
11 largest corporate user of public wastewater facilities; and,
12 one member shall be appointed by the county commission
13 with unanimous approval of the Town Council and Hardy
14 County's largest corporate user of public wastewater
15 facilities. No later than July 1, 2010, the Town of Moorefield
16 and the county commission shall each appoint one member
17 of the board of directors for a term of three years; the Town
18 Council of the Town of Moorefield and the county
19 commission of Hardy County shall each select one of their
20 members for a term of two years; and, Hardy County's
21 largest corporate user of public wastewater facilities shall
22 appoint one member for a term of five years, all in the
23 manner set forth herein. Although members shall serve from
24 the date of appointment, terms of office shall expire as if said

25 terms had commenced on July 1, 2010. Each successor
26 member of the board of directors shall be appointed by the
27 respective entity that appointed the predecessor member in
28 the same manner as the predecessor was appointed and each
29 successor member shall be appointed for a term of three
30 years, except that the terms of the Town Council person and
31 the county commissioner shall be for a period of two years,
32 and provided further, that any person appointed to fill a
33 vacancy occurring before the expiration of the term shall
34 serve only for the unexpired portion thereof. Any member of
35 the board shall be eligible for reappointment and the
36 appointing entity which appointed the member may remove
37 that member at any time for any reason. There shall be an
38 annual meeting of the board of directors on the second
39 Monday in July of each year and a monthly meeting on the
40 day in each month which the authority may designate in its
41 bylaws. A special meeting may be called by the president or
42 any two members of the board and shall be held only after all
43 of the directors are given notice thereof in writing. At all
44 meetings three members shall constitute a quorum and at
45 each annual meeting of the board of directors it shall elect,
46 from its membership, a president, a vice president, a secretary
47 and a treasurer: *Provided*, That a member may be elected
48 both secretary and treasurer. The board of directors shall
49 adopt those bylaws and rules which it considers necessary for
50 its own guidance and for the administration, supervision and
51 protection of the authority and all of the property belonging
52 to the authority. The board of directors has all the powers
53 necessary, convenient and advisable for the proper operation,
54 equipment and management of the authority; and except as
55 otherwise especially provided in this act, shall have the
56 powers and be subject to the duties which are conferred and
57 imposed upon the cooperating entities by article thirteen-d,
58 chapter sixteen of the Code of West Virginia, 1931, as
59 amended. The qualifications of the directors shall be
60 determined by each participating entity.

§3. Same--A body corporate.

1 The Moorefield/Hardy County Wastewater Authority
2 hereby created shall be a public corporation and
3 governmental instrumentality. It may contract and be
4 contracted with, sue and be sued, plead and be impleaded and
5 shall have and use a common seal.

§4. Title to property.

1 The title to all property, both real and personal, that will
2 provide wastewater service to the parties making up the
3 authority in connection with the operation by it shall vest in
4 the board of directors of the Moorefield/Hardy County
5 Wastewater Authority hereby created.

§5. Support, maintenance and operation.

1 All income realized by the operation of the authority
2 from the collection, transmission and treatment of wastewater
3 or from any other sources shall be used by the board of
4 directors for the support of the Moorefield/Hardy County
5 Wastewater Authority.

§6. Deposit and disbursement of funds.

1 All money collected by the Moorefield/Hardy County
2 Wastewater Authority shall be deposited in a special account
3 for the Moorefield/Hardy County Wastewater Authority, and
4 shall be disbursed by the authority for the purpose of
5 operating a public wastewater system.

§7. Workers' compensation; social security and public employees' retirement benefits for employees.

1 All employees of the Moorefield/Hardy County
2 Wastewater Authority hereby created shall be entitled to the
3 benefits of the provisions of chapter twenty-three, and
4 articles seven and ten, chapter five of the Code of West
5 Virginia, 1931, as amended.

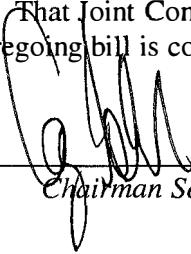
§8. Effect of future amendments of general law.

1 Amendments to article twenty-three, chapter eight of the
2 Code of West Virginia, 1931, as amended, and other general
3 laws shall control this act only to the extent that they do not
4 conflict with the special features hereof, or unless the intent
5 to amend this act is clear and unmistakable.

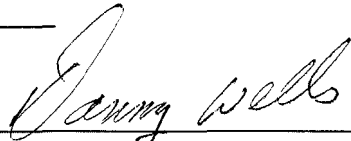
§9. Severability.

1 If any provision hereof is held invalid, such invalidity
2 does not affect other provisions hereof which can be given
3 effect without the invalid provision, and to this end the
4 provisions of this act are declared to be severable.

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



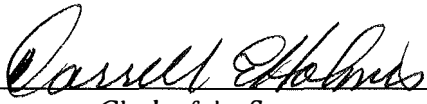
Chairman Senate Committee



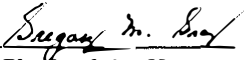
Chairman House Committee

Originating in the House.

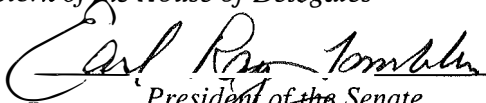
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates

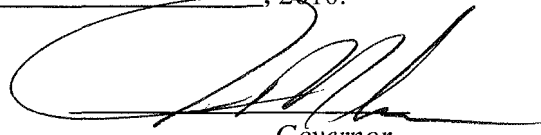


President of the Senate



Speaker of the House of Delegates

The within is approved this the 3rd
day of May, 2010.



Governor

PRESENTED TO THE
GOVERNOR

FEB 25 2010

Time 2:50 pm