

# WEST VIRGINIA LEGISLATURE FILED

2016 REGULAR SESSION

2016 MAR 24 P 2:49

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4265**

(BY DELEGATES WALTERS, FRICH, CANTERBURY,

MCCUSKEY, HANSHAW, SKINNER, MARCUM AND PERRY)

[Passed March 11, 2016; in effect ninety days from passage.]

HB 4265

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4265**

**(BY DELEGATES WALTERS, FRICH, CANTERBURY,**

**MCCUSKEY, HANSHAW, SKINNER, MARCUM AND PERRY)**

**[Passed March 11, 2016; in effect ninety days from passage.]**

1 AN ACT to amend and reenact §7-3-9 of the Code of West Virginia, 1931, as amended; to amend  
2 and reenact §8-16-17 of said code; to amend and reenact §8-27-16 of said code; to amend  
3 and reenact §10-2A-16 of said code; and to amend and reenact §17-17-22 and §17-17-  
4 34 of said code; all relating to direct payments of principal and interest on certain bonds  
5 owned by the United States or any governmental agency or department of the United  
6 States.

*Be it enacted by the Legislature of West Virginia:*

1 That §7-3-9 of the Code of West Virginia, 1931, as amended be amended and reenacted;  
2 that §8-16-17 of said code be amended and reenacted; that §8-27-16 of said code be amended  
3 and reenacted; that §10-2A-16 of said code be amended and reenacted; and that §17-17-22 and  
4 §17-17-34 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

### **ARTICLE 3. COUNTY PROPERTY.**

#### **§7-3-9. Form and payment of bonds; use of proceeds of bonds.**

1 Any county commission issuing revenue bonds under the provisions of this article shall  
2 thereafter, so long as any such bonds remain outstanding, operate and maintain said courthouse,  
3 hospital, other public buildings, jail or regional correctional center, to provide revenues sufficient  
4 to pay all operating costs, provide a sinking fund for, and to retire such bonds and pay the interest  
5 thereon as the same may become due. The amounts, as and when so set apart by said county  
6 commission, shall be remitted to the West Virginia Municipal Bond Commission at least thirty days  
7 previous to the time interest or principal payments become due, to be retained and paid out by  
8 said commission consistent with the provisions of this article and with the order pursuant to which  
9 the bonds have been issued. The West Virginia Municipal Bond Commission is hereby authorized  
10 to act as fiscal agent for the administration of such sinking fund under any order passed pursuant  
11 to the provisions of this article, and shall invest all sinking funds, as provided by general law.

12 Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the  
13 United States or any governmental agency or department thereof may be made by the county  
14 commission directly thereto. Revenue bonds issued under the provisions of this article are hereby  
15 declared to be and to have all the qualities of negotiable instruments. Such bonds shall bear  
16 interest at the rate or rates set by the county commission, not to exceed twelve percent per  
17 annum, payable semiannually, and shall mature at any time fixed by the county commission, in  
18 not more than thirty years from their date. Such bonds shall be sold at a price not lower than a  
19 price which, when computed upon standard tables of bond values, will show a net return of not  
20 more than thirteen percent per annum to the purchaser upon the amount paid therefor. Such  
21 bonds may be made redeemable at the option of the county commission at such price and under  
22 terms and conditions as said county commission may fix, by its order, prior to the issuance of  
23 such bonds. Revenue bonds issued hereunder shall be payable at the office of the State  
24 Treasurer, or a designated bank or trust company within or without the State of West Virginia.

25 In case any of the officers whose signatures appear on such bonds or coupons shall cease  
26 to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid  
27 and sufficient for all purposes the same as if they had remained in office until such delivery. The  
28 county commission shall by order entered prior to the issuance of said bonds, fix the  
29 denominations, times and places of payment of such bonds, the principal and interest of which  
30 shall be payable in lawful money of the United States of America. The proceeds of such bonds  
31 shall be used solely for the payment of the cost of land, buildings, furniture and equipment  
32 thereon, and shall be checked out by the county commission under such restrictions as are  
33 contained in the order providing for the issuance of said bonds. If the proceeds of such bonds  
34 issued for any courthouse, hospital, other public buildings, jail or regional correctional center, shall  
35 exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment  
36 of principal and interest upon such bonds. Such fund may be used for the purchase or redemption  
37 of any of the outstanding bonds payable from such fund at the market price, but at not exceeding

38 the price at which any of such bonds shall in the same year be redeemable, as fixed by the  
39 commission in its said order, and all bonds redeemed or purchased shall forthwith be canceled,  
40 and shall not again be issued.

41 Prior to the preparation of definitive bonds, the county commission may, under like  
42 restrictions, issue temporary bonds, or interim certificates, with or without coupons, exchangeable  
43 for definitive bonds upon the issuance of the latter. Such bonds may be issued without any other  
44 proceedings or the happening of any other conditions or things than those proceedings, conditions  
45 and things which are specified and required by this article.

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.**

#### **§8-16-17. Sinking fund; West Virginia Municipal Bond Commission; transfer of funds; purchase of outstanding bonds.**

1 Before the issuance of any such bonds, the governing body or bodies shall, by ordinance  
2 or ordinances, provide for a sinking fund for the payment of the bonds and the interest thereon,  
3 and the payment of the charges of banking institutions or trust companies for making payment of  
4 such bonds and interest, out of the net revenues of said works, and shall set aside and pledge a  
5 sufficient amount of the net revenues of the works hereby defined to mean the revenues of the  
6 works remaining after the payment of the reasonable expenses of repair (including replacements),  
7 maintenance and operation, such amount to be paid by the board into the sinking fund at intervals,  
8 to be determined by ordinance or ordinances adopted prior to the issuance of the bonds, for: (a)  
9 The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency  
10 charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or if all bonds  
11 mature at one time, the proper maintenance of a sinking fund sufficient for the payment thereof  
12 at such time; and (d) a margin for safety and for the payment of premium upon bonds retired by  
13 call or purchase as herein provided, which margin, together with unused surplus of such margin

14 carried forward from the preceding year and the amounts set aside as reserves out of the  
15 proceeds from the sale of the bonds, or from the revenues of said works, or from both, shall equal  
16 ten percent of all other amounts so required to be paid into the sinking fund. Such required  
17 payments shall constitute a first charge upon all the net revenues of the works. Prior to the  
18 issuance of the bonds, the board may, by ordinance or ordinances, be given the right to use or  
19 direct the trustee or the West Virginia Municipal Bond Commission to use such sinking fund, or  
20 any part thereof, in the purchase of any of the outstanding bonds payable therefrom, at the market  
21 prices thereof, but not exceeding the price, if any, at which the same shall in the same year be  
22 payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled, and  
23 shall not again be issued. After the payments into the sinking fund as herein required and after  
24 reserving an amount deemed by the board sufficient for repair (including replacements),  
25 maintenance and operation for an ensuing period of not less than twelve months and for  
26 depreciation, the board may at any time in its discretion transfer all or any part of the balance of  
27 the net revenues into the sinking fund or into a fund for improvement, renovation, extension,  
28 enlargement, increase or equipment for or to the works, or the governing body or bodies may,  
29 notwithstanding the provisions of section twenty, article thirteen of this chapter, transfer all or any  
30 part of the balance of the net revenues to the general or any special fund of the municipality or  
31 municipalities and use such revenues for any purpose for which such general or special fund may  
32 be expended.

33 All amounts for the sinking fund and interest, as and when set apart for the payment of  
34 same, shall be remitted to the West Virginia Municipal Bond Commission at such periods as shall  
35 be designated in the ordinance or ordinances, but in any event at least thirty days previous to the  
36 time interest or principal payments become due, to be retained and paid out by said commission  
37 consistent with the provisions of this article and the ordinance or ordinances pursuant to which  
38 such bonds have been issued. The West Virginia Municipal Bond Commission is hereby  
39 authorized to act as fiscal agent for the administration of such sinking fund under any ordinance

40 or ordinances passed or adopted pursuant to the provisions of this article and shall invest all  
41 sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal  
42 and interest on any bonds owned by the United States or any governmental agency or department  
43 thereof may be made by the governing body directly thereto.

**ARTICLE 27. INTERGOVERNMENTAL RELATIONS – URBAN MASS  
TRANSPORTATION SYSTEMS.**

**§8-27-16. Sinking fund; West Virginia Municipal Bond Commission; purchase of  
outstanding bonds.**

1 Before the issuance of any bonds under the provisions of this article, the authority shall,  
2 by resolution, provide for a sinking fund for the payment of the bonds and the interest thereon,  
3 and the payment of the charges of banking institutions or trust companies for making payment of  
4 such bonds and interest, out of the net revenues of said system, and, in this connection, shall set  
5 aside and pledge a sufficient amount of the net revenues of the system for such purpose, such  
6 net revenues being hereby defined to mean the revenues of the system remaining after the  
7 payment of the reasonable expense of administration, maintenance, repair and operation, such  
8 amount to be paid by such authority into the sinking fund at intervals, to be determined by  
9 resolution adopted prior to the issuance of the bonds, for: (a) The interest upon such bonds as  
10 such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest;  
11 (c) the payment of the bonds as they fall due, or, if all the bonds mature at one time, the proper  
12 maintenance of a sinking fund sufficient for the payment thereof at such time; and (d) a margin  
13 for safety and for the payment of premium upon bonds retired by call or purchase as provided in  
14 this article. Such required payments shall constitute a first charge upon all the net revenues of  
15 such authority. Prior to the issuance of any bonds, the authority may, by resolution, be given the  
16 right to use or direct the West Virginia Municipal Bond Commission to use such sinking fund, or  
17 any part thereof, in the purchase of any of the outstanding bonds payable therefrom, at the market

18 prices thereof, but not exceeding the price, if any, at which the same shall in the same year be  
19 payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled, and  
20 shall not again be issued. In addition to the payments into the sinking fund provided for above,  
21 the authority may at any time in its discretion transfer all or any part of the balance of the net  
22 revenues, after reserving an amount deemed by such authority sufficient for maintenance, repair  
23 and operation for an ensuing period of not less than twelve months and for depreciation, into the  
24 sinking fund.

25         The amounts of the balance of the net revenues as and when so set apart shall be remitted  
26 to the West Virginia Municipal Bond Commission at such periods as shall be designated in the  
27 resolution, but in any event at least thirty days previous to the time interest or principal payments  
28 become due, to be retained and paid out by said commission consistent with the provisions of  
29 this article and the resolution pursuant to which such bonds have been issued. The West Virginia  
30 Municipal Bond Commission is hereby authorized to act as fiscal agent for the administration of  
31 such sinking fund under any resolution adopted pursuant to the provisions of this article and shall  
32 invest all sinking funds as provided by general law. Notwithstanding the foregoing, payments of  
33 principal and interest on any bonds owned by the United States or any governmental agency or  
34 department thereof may be made by the authority directly thereto.

**CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECREATION; ATHLETIC  
ESTABLISHMENTS; MONUMENTS AND MEMORIALS; ROSTER OF  
SERVICEMEN; EDUCATIONAL BROADCASTING AUTHORITY.**

**ARTICLE 2A. ATHLETIC ESTABLISHMENTS.**

**§10-2A-16. Sinking fund.**

1         At or before the issuance of any such bonds, the board shall, by resolution, provide for a  
2 sinking fund for the payment of the bonds and the interest thereon, and the payment of the  
3 charges of banks or trust companies for making payment of such bonds, and interest, out of the

4 net revenues of said athletic establishment, and shall set aside and pledge a sufficient amount of  
5 the net revenues of the athletic establishment to be paid by the board into such sinking fund at  
6 intervals to be determined by resolution adopted prior to the issuance of the bonds, for: (a) The  
7 interest upon such bonds as the same becomes due; (b) the necessary fiscal agency charges for  
8 paying bonds and interest; (c) the payment of the bonds as they fall due, or if all bonds mature at  
9 one time, the maintenance of a proper sinking fund for the payment thereof at such time; and (d)  
10 a margin for safety and for the payment of premium upon bonds retired by call or purchase as  
11 herein provided for, which margin, together with unused surplus of such margin carried forward  
12 from the preceding year, shall equal ten per cent of all other amounts so required to be paid into  
13 the sinking fund. Such required payments shall constitute a first charge upon all the net revenues  
14 of the athletic establishment. Net revenues as used herein shall mean the revenues of the athletic  
15 establishment remaining after the payment of reasonable expense of operation, repairs,  
16 maintenance, insurance and all other reasonable costs of maintaining and operating the same  
17 required to be paid from the revenues thereof. After the payment into the sinking fund as herein  
18 required, the board may at any time in its discretion transfer all or any part of the balance of the  
19 net revenues, after reserving an amount deemed by the board sufficient for operation, repairs,  
20 maintenance and depreciation for an ensuing period of not less than twelve months, into the  
21 sinking fund or into a fund for extensions, improvements and additions to such athletic  
22 establishment. All amounts for sinking fund and interest, as and when set apart for the payment  
23 of same, shall be remitted to the West Virginia Municipal Bond Commission at such periods as  
24 shall be designated in the resolution, but in any event at least thirty days previous to the time  
25 interest or principal payments become due, to be retained and paid out by said commission,  
26 consistent with provisions of this article and the order pursuant to which such bonds have been  
27 issued. The West Virginia Municipal Bond Commission is hereby authorized to act as fiscal agent  
28 for the administration of such sinking fund under any resolution adopted pursuant to the provisions  
29 of this article and shall invest all sinking funds as provided by general law. Notwithstanding the

30 foregoing, payments of principal and interest on any bonds owned by the United States or any  
31 governmental agency or department thereof may be made by the board directly thereto.

## CHAPTER 17. ROADS AND HIGHWAYS.

### ARTICLE 17. TOLL BRIDGES.

#### **§17-17-22. Tolls to be charged for bond payment; intrastate and interstate bridges included in one issue; purchase of existing bridges; disposition of tolls.**

1 Tolls shall be fixed, charged and collected for transit over such bridges and shall be so  
2 fixed and adjusted, in respect of the aggregate of tolls from the bridge or bridges for which a single  
3 issue of bonds is issued, as to provide a fund sufficient to pay the principal and interest of such  
4 issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing and  
5 operating such bridge or bridges, subject, however, to any applicable law or regulation of the  
6 United States of America now in force or hereafter to be enacted or made. Two or more bridges  
7 may be included in one issue of bonds, and intrastate and interstate bridges may be grouped in  
8 the same issue: *Provided*, That no existing bridge or bridges shall be acquired by purchase,  
9 eminent domain, or otherwise, unless the state road commissioner shall have determined that the  
10 income therefrom, based upon the toll receipts for the next preceding fiscal or calendar year, will  
11 be sufficient to pay all expenses of operating and maintaining such bridge, in addition to the  
12 interest and sinking fund requirements of any bonds to be issued to pay the purchase price  
13 thereof, or, if such existing bridge or bridges are to be combined with any other bridge or bridges,  
14 either then existing or thereafter to be constructed or acquired by purchase, eminent domain, or  
15 otherwise, as provided in section twenty-three-b following, unless the state road commissioner  
16 shall have determined that the income from such combined bridges, based upon the toll receipts  
17 for the next preceding fiscal or calendar year in the case of any existing bridge or bridges and  
18 upon estimates of future toll receipts in the case of any bridge or bridges to be constructed, will  
19 be sufficient to pay all expenses of operating and maintaining such combined bridges, in addition

20 to the interest and sinking fund requirements of any bonds issued to pay the purchase price of  
21 such existing bridge or bridges and the interest and sinking fund requirements of any bonds issued  
22 to pay the cost of construction, acquiring, modernizing, repairing, reconstructing or improving any  
23 bridge or bridges and approaches thereto, with which such existing bridge or bridges are to be so  
24 combined. The tolls from the bridge or bridges for which a single issue of bonds is issued, except  
25 such part thereof, as may be necessary to pay such cost of maintaining, repairing and operating  
26 during any period in which such cost is not otherwise provided for (during which period the tolls  
27 may be reduced accordingly), shall be transmitted each month to the West Virginia Municipal  
28 Bond Commission and by it placed in a special fund which is hereby pledged to and charged with  
29 the payment of the principal of such bonds and the interest thereon, and to the redemption or  
30 repurchase of such bonds, such special fund to be a fund for all such bonds without distinction or  
31 priority of one over another. The moneys in such special fund, less a reserve for payment of  
32 interest, if not used by the West Virginia Municipal Bond Commission within a reasonable time for  
33 the purchase of bonds for cancellation at a price not exceeding the market price and not  
34 exceeding the redemption price, shall be applied to the redemption of bonds by lot at the  
35 redemption price then applicable. Notwithstanding the foregoing, payments of principal and  
36 interest on any bonds owned by the United States or any governmental agency or department  
37 thereof may be made by the governing body directly thereto.

38 Any bridge or bridges constructed or acquired by purchase, eminent domain, or otherwise,  
39 or reconstructed, repaired or improved, under the provisions of this article and forming a  
40 connecting link between two or more state highways, or providing a river crossing for a state  
41 highway, are hereby adopted as a part of the state road system, but no such bridge or bridges  
42 shall be constructed or acquired by purchase, eminent domain, or otherwise, or reconstructed,  
43 repaired or improved, under the provisions of this article without the approval in writing of the state  
44 road commissioner and the Governor. If there be in the funds of the West Virginia Municipal Bond  
45 Commission an amount insufficient to pay the interest and sinking fund on any bonds issued for

46 the purpose of constructing or acquiring by purchase, eminent domain, or otherwise, or  
47 reconstructing, repairing or improving, such bridge or bridges, the state road commissioner is  
48 authorized and directed to allocate to said commission, from the state road fund, an amount  
49 sufficient to pay the interest on said bonds and/or the principal thereof, as either may become due  
50 and payable.

**§17-17-34. Same — Retiring bonds; remittance to sinking fund.**

1 Every municipality or county court issuing bonds, or other evidences of indebtedness,  
2 under the provisions of this act, shall thereafter, so long as any such bonds or other evidences of  
3 indebtedness remain outstanding, operate and maintain its bridge so as to provide, charge, collect  
4 and account for revenues therefrom as will be sufficient to pay all operating costs, provide a  
5 depreciation fund, retire the bonds or other evidences of indebtedness, and pay the interest  
6 requirements as the same may become due. The ordinance or order pursuant to which any such  
7 bonds or other evidences of indebtedness are issued shall pledge the revenues derived from the  
8 bridge to the purposes aforesaid, and shall definitely fix and determine the amount of revenues  
9 which shall be necessary and set apart in a special fund for the bond requirements. The amounts,  
10 as and when so set apart into said special fund for the bond requirements, shall be remitted to  
11 the West Virginia Municipal Bond Commission at least thirty days previous to the time interest or  
12 principal payments become due, to be retained and paid out by said commission consistent with  
13 the provisions of this act and the ordinance or order pursuant to which such bonds or other  
14 evidences of indebtedness have been issued. Notwithstanding the foregoing, payments of  
15 principal and interest on any bonds owned by the United States or any governmental agency or  
16 department thereof may be made by the governing body directly thereto.

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

*B. M. C.*  
.....  
Chairman, House Committee

*Ed Lynch*  
.....  
Member Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

*Steph J. Harris*  
.....  
Clerk of the House of Delegates

*Clark Boone*  
.....  
Clerk of the Senate

*Philip P. Miller*  
.....  
Speaker of the House of Delegates

*Phillip P. White*  
.....  
President of the Senate

The within *is*..... *approved*.. this the *24<sup>th</sup>*.....  
day of *March*....., 2016.

*Carl Ray Tomblin*  
.....  
Governor

PRESENTED TO THE GOVERNOR

10/12/2013

Time 3:26 pm