

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 3122**

BY DELEGATES RILEY AND ROWE

[Originating in the Committee on Government

Organization; February 9, 2022]



1 A BILL to amend and reenact §16-13D-1, §16-13D-2, §16-13D-3, §16-13D-4, §16-13D-5, §16-  
2 13D-6, §16-13D-8, §16-13D-9, §16-13D-10, §16-13D-11, §16-13D-12, §16-13D-13, §16-  
3 13D-14, §16-13D-15, §16-13D-17, and §16-13D-21, of the Code of West Virginia, 1931,  
4 as amended; and to amend said code by adding thereto a new section, designated §16-  
5 13D-22, all relating to the establishment and operation of regional water, wastewater, and  
6 stormwater authorities.

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

**ARTICLE 13D. REGIONAL WATER AND WASTEWATER AND STORMWATER  
AUTHORITY ACT.**

**§16-13D-1. Statement of purpose.**

1 It is the purpose of this article, to permit ~~certain public agencies~~ a public agency, or more  
2 than one public agency to make the most efficient use of its or their powers relating to public water  
3 supplies, ~~and~~ the transportation and treatment of wastewater, and the management of stormwater  
4 by enabling ~~them~~ a public agency, or more than one public agency to cooperate with other public  
5 agencies on a basis of mutual advantage and thereby to provide services and facilities to  
6 participating public agencies and to provide for the establishment for ~~such~~ the purpose of a quasi-  
7 governmental public corporation which shall be known as a regional water authority, ~~or where~~  
8 ~~appropriate,~~ a regional wastewater authority, ~~or regional water and wastewater authority~~ a  
9 regional stormwater authority, or any combination thereof. The function of the regional water  
10 authority shall be to secure a source of water on a scale larger than is feasible for an individual  
11 public agency or agencies acting alone, and to sell ~~such~~ water to public service districts,  
12 municipalities, publicly and privately owned water utilities, and others. The function of the regional  
13 wastewater authority shall be to enable a public agency or agencies ~~to join together~~ to provide  
14 the most economical method of transportation and treatment of wastewater and to provide ~~such~~  
15 transportation and treatment services to public service districts, municipalities, publicly and

16 privately owned wastewater utilities, and others. The function of the regional stormwater authority  
17 shall be to enable a public agency or agencies to provide storm, flood and surface water drainage  
18 management services to public service districts, municipalities, publicly and privately owned  
19 stormwater utilities, and others. The function of the ~~regional water and wastewater authority a~~  
20 regional authority that provides any combination of water, wastewater, or stormwater service shall  
21 be to enable a public agency or agencies ~~to join together~~ to carry out the joint functions of ~~both a~~  
22 water, wastewater, or stormwater regional water authority. ~~and a regional wastewater authority~~

23 In addition to the purposes for which it may have originally been created, any authority  
24 created pursuant to this article ~~shall have the power to~~ may enter into agreements with public  
25 agencies, privately owned utilities, and other authorities, for the provision of related services  
26 including, but not limited to the following: A administration, operation and maintenance, billing,  
27 and collection.

**§16-13D-2. Definitions.**

1 For the purposes of this article:

2 (a) The term “authority” ~~shall mean~~ means any regional water authority, regional  
3 wastewater authority, regional stormwater authority, or ~~regional water and wastewater authority~~  
4 any combination thereof organized pursuant to the provisions of this article; ~~and~~

5 (b) The term “public agency” ~~shall mean~~ means any municipality, county, public service  
6 district, or other political subdivision of this state; and

7 (c) The term “stormwater,” “stormwater system” or “stormwater works” means a  
8 stormwater system in its entirety or any integral part thereof used to collect and dispose of  
9 stormwater and an associated stormwater management program. It includes all facilities,  
10 structures and natural water courses used for collecting and conducting stormwater to, through  
11 and from drainage areas to the points of final outlet, including, but not limited to, any and all of  
12 the following: inlets, conduits, outlets, channels, ponds, drainage easements, water quality  
13 facilities, catch basins, ditches, streams, gulches, flumes, culverts, syphons, retention or detention

14 basins, dams, floodwalls, levies, pipes, flood control systems and pumping stations, and  
15 associated stormwater management program. The term “stormwater system” and “stormwater  
16 works” shall not include highways, road and drainage easements, and/or stormwater facilities  
17 constructed, owned and/or operated by the West Virginia Division of Highways.

**§16-13D-3. Individual or joint exercise of powers by certain public agencies; agreements among agencies, contents; submission to Public Service Commission; filing of agreement; prohibition against competition; retirement of bonds.**

1 (a) Any powers, privileges, or authority of a public agency of this state relating to public  
2 water supplies, or the transportation or treatment of wastewater, or the operation of a stormwater  
3 system may be exercised individually or jointly with any other public agency of this state, or with  
4 any agency of the United States to the extent that the laws of the United States permit. Any agency  
5 of the state government when acting individually or jointly with any public or private agency may  
6 exercise all of the powers, privileges and authority conferred by this act upon a public agency.

7 (b) Any public agency may individually organize a regional water authority, regional  
8 wastewater authority, regional stormwater authority, or any combination thereof. Any public  
9 agency may enter into agreements with one or more other public agencies for the purpose of  
10 organizing a regional water authority, regional wastewater authority, regional stormwater  
11 authority, or regional water and wastewater authority any combination thereof. Appropriate action  
12 by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating  
13 public agency or agencies required by the provisions of Chapter 8 and Chapter 16 of this code  
14 shall be necessary before any ~~such~~ agreement may enter into force.

15 (c) For an agency acting individually, the organizational document for the authority shall  
16 specify the following:

17 (1) The precise organization, composition and nature of the authority created thereby  
18 together with the powers delegated thereto;

19 (2) Its purpose or purposes;

20 (3) The manner of financing for the authority and of establishing and maintaining a budget  
21 therefor;

22 (4) The manner of acquiring, holding and disposing of real and personal property of the  
23 authority; and

24 (5) Any other necessary and proper matters.

25 ~~(e)~~ (d) Any such agreement between two or more public agencies to organize an authority  
26 shall specify the following:

27 (1) Its duration;

28 (2) The precise organization, composition and nature of the authority created thereby  
29 together with the powers delegated thereto;

30 (3) Its purpose or purposes;

31 (4) The manner of financing for the authority and of establishing and maintaining a budget  
32 therefor;

33 (5) The permissible methods for partial or complete termination of the agreement and for  
34 disposing of property upon ~~such~~ partial or complete termination;

35 (6) The manner of acquiring, holding, and disposing of real and personal property of the  
36 authority;

37 (7) Any other necessary and proper matters.

38 ~~(d)~~ (e) Any such agreement between two or more public agencies to organize an authority  
39 may be amended to include additional public agencies by consent of two thirds of the signatories  
40 to the agreement, if no terms of agreement are changed, otherwise a new agreement with the  
41 new public agency shall be drawn. Where fewer than three public agencies come together to form  
42 an authority, both parties ~~must~~ shall consent to the amendment of the agreement to include  
43 additional public agencies.

44 ~~(e)~~ (f) Prior to taking effect Any agency acting individually to organize an authority and  
45 every agreement made hereunder shall be submitted to the Public Service Commission for its

46 approval. The Public Service Commission shall, within 30 days of the filing date, notify the agency  
47 whether the agency has filed all required documentation regarding the organization or agreement  
48 that is required by the Commission. If the Commission determines that additional information is  
49 needed it will inform the agency of the information needed. Failure by the Public Service  
50 Commission to approve or disapprove an agency's decision to individually organize an authority  
51 or an agreement submitted hereunder within 90 days of its submission the date that the  
52 Commission before it all necessary information from the agency shall constitute approval thereof;  
53 Provided, That the 90-day Commission review period may be extended upon request of the  
54 agency.

55 (f) (g) Prior to taking effect, ~~an~~ the organizational document of the agency acting  
56 individually or the agreement between two or more agencies made hereunder shall be filed with  
57 the clerk of the county commission of each county in which a the agency acting individually, or in  
58 the case of an authority organized by agreement of two or more agencies, in the county where  
59 each member of the authority is located and ~~such~~ the agreement then also shall be filed with the  
60 Secretary of State, accompanied by a certificate from the clerk of the county commission of the  
61 county, or counties, where filed, stating that ~~such~~ the agreement has been filed in ~~such~~ that  
62 county.

63 (g) (h) A public agency which enters into an agreement made hereunder ~~shall~~ may not  
64 offer or provide water, ~~or~~ wastewater, or stormwater services in competition with another public  
65 agency entering into ~~such~~ the agreement.

66 (h) (i) A public agency which enters into an agreement made hereunder ~~shall~~ may not  
67 withdraw from the agreement until such time as the outstanding bonded indebtedness of the  
68 authority is retired or the bond holders are otherwise protected.

**§16-13D-4. Furnishing of funds, personnel or services by certain public agencies,  
agreements for purchase, sale, distribution, transmission, transportation,**

**collection, disposal and treatment of water, or wastewater, or stormwater; terms and conditions.**

1 Any public agency acting individually to organize an authority or entering into an  
2 agreement pursuant to this article may appropriate funds and may sell, lease, give, or otherwise  
3 supply to the authority created ~~such~~ the personnel or services for the operation of ~~such~~ the  
4 authority as may be within its legal power to furnish.

5 Subject to the prior approval of the Public Service Commission pursuant to §24-2-12 of  
6 this code, A any public agency, whether or not a party to an agreement pursuant to this article,  
7 and any publicly or privately owned water distribution company may enter into contracts with any  
8 regional ~~water authority or regional water and wastewater~~ authority created pursuant to this article  
9 for the purchase of water from ~~such~~ the authority or the sale of water to the authority, the treatment  
10 of water by either party, and the distribution or transmission of water by either party and any such  
11 authority may enter into ~~such~~ the contracts, ~~subject to the prior approval of the Public Service~~  
12 ~~Commission pursuant to the provisions of §24-2-12 of this code;~~ The Public Service Commission  
13 shall, within 30 days of the filing date, notify the parties to the contract whether they have filed all  
14 required documentation regarding the contract. If the Commission determines that additional  
15 information is needed it will inform the agency of the information needed. The Public Service  
16 Commission shall act on a filing submitted hereunder within 90 days of the date that the  
17 Commission has before it all necessary information from the parties to the contract. Failure of the  
18 Commission to act on the filing within the 90-day period shall constitute approval thereof;  
19 Provided, That the 90-day Commission review period may be extended upon request of the  
20 parties to the contract.

21 Any public agency, whether or not a party to an agreement pursuant to this act, and any  
22 publicly or privately owned wastewater transportation or treatment system may enter into  
23 contracts with any regional ~~wastewater authority or regional water and wastewater~~ authority  
24 created pursuant to this article for the transportation and treatment of wastewater by either party



25 and any ~~such~~ authority may enter into ~~such~~ the contracts, subject to the prior approval of the  
26 Public Service Commission pursuant to ~~the provisions of §24-2-12 of this code.~~ *Provided*, That if  
27 ~~the Public Service Commission has not acted on any such proposed contract within 90 days of~~  
28 ~~its filing, such approval shall be deemed to have been granted.~~ The Public Service Commission  
29 shall, within 30 days of the filing date, notify the parties to the agreement whether they have filed  
30 all required documentation regarding the contract. If the Commission determines that additional  
31 information is needed it will inform the agency of the information needed. The Public Service  
32 Commission shall act on a filing submitted hereunder within 90 days of the date that the  
33 Commission has before it all necessary information from the parties to the contract. Failure by the  
34 Commission to act within the 90-day period shall constitute approval thereof: *Provided*, That the  
35 90-day Commission review period may be extended on upon request of the parties to the contract.

36 Any public agency, whether or not a party to an agreement pursuant to this article, and  
37 any publicly or privately owned stormwater system may enter into contracts with any regional  
38 authority created pursuant to this article for the collection and disposition of stormwater by either  
39 party and any authority may enter into contracts.

40 Any ~~such~~ contract may include an agreement for the purchase of water not actually  
41 received or the treatment of wastewater not actually treated, or the collection and disposition of  
42 stormwater not actually collected and disposed. No ~~such~~ contract shall may be made for a period  
43 in excess of 40 years, but renewal options may be included therein. The obligations of any public  
44 agency under any ~~such~~ contract shall be payable solely from the revenues produced from ~~such~~  
45 the public agency's water, or stormwater and wastewater system, and the Public Service  
46 Commission, in the case of a public agency whose rates are subject to its jurisdiction, shall permit  
47 the public agency to recover through its rates revenues sufficient to meet its obligations under  
48 ~~such~~ the agreement.

**§16-13D-5. Declaration of authority organization, when quasi-governmental public corporation.**

1           Upon the approval of the Public Service Commission and filing with the Secretary of State,  
2 the Secretary of State shall declare the authority organized and give it the corporate name of  
3 regional water authority number \_\_\_\_\_, regional wastewater authority number \_\_\_\_\_, regional  
4 stormwater authority number \_\_\_\_\_, or any combination thereof ~~regional water and wastewater~~  
5 ~~authority number \_\_\_\_\_~~, whichever is appropriate. Thereupon the authority shall be a quasi-  
6 governmental public corporation.

**§16-13D-6. Governing body; appointments; terms of members, voting rights.**

1           The governing body of the authority shall consist of not less than three persons selected  
2 by the ~~participating public agencies~~ governing body of the public agency. ~~Each~~ When the authority  
3 is organized by more than one public agency, each participating public agency shall appoint at  
4 least one ~~and not more than two members~~ member.

5           The governing body of the authority shall consist of at least one member of the following  
6 categories: (1) A professional engineer licensed by the State of West Virginia, (2) a certified public  
7 accountant licensed by the State of West Virginia, or (3) an attorney licensed and in good standing  
8 with the West Virginia State Bar. Each member of the board must be a rate-paying residential  
9 customer of the authority.

10           For purposes of this section, “rate-paying residential customer” means a person who: (1)  
11 In the case of water or wastewater service, is physically connected to and actively receiving  
12 residential utility services from the authority; or (2) in the case of stormwater service, has  
13 stormwater conveyed away from the residential property by facilities owned by the authority. Each  
14 member’s full term shall be not less than one year nor more than four years and initial terms shall  
15 be staggered in accordance with procedures set forth in the organization document or agreement  
16 provided for in §16-13D-3 of this code, and amendments thereto. In the case of an authority which  
17 is made up by the agreement of two public agencies, each public agency shall appoint at least  
18 two representatives to the governing body.

19           When the authority is organized by more than one public agency ~~The~~ the manner of  
20 selection of ~~such~~ the governing body and terms of office shall be set forth in the agreement  
21 provided for in §16-13D-3 of this code, and amendments thereto. The governing body of the  
22 authority shall elect one of its members as president, one as treasurer and one as secretary.

23           Each member shall have one vote in any matter that comes before the authority for  
24 decision. However, when the authority is organized by more than one public agency, the member  
25 agencies shall, in the original agreement establishing the authority, set forth any special weighing  
26 of ~~such~~ the votes based upon population served, volumes of water purchased, volumes of  
27 wastewater treated, volumes of stormwater collected and disposed numbers of customers, or  
28 some other criterion, so as to maintain fairness in the decisions and operations of the authority.

**§16-13D-8. Powers of governing body.**

1           For the purpose of ~~providing a water supply, transportation facilities, or treatment system~~  
2 ~~to the participating public agencies, and others, the governing body of the authority shall have the~~  
3 ~~following~~ operating as an authority as provided in this article, powers, authorities, and privileges  
4 of the authority shall include, but are not limited to, the following:

5           (1) To accept by gift or grant from any person, firm, corporation, trust, or foundation, or  
6 from this state or any other state or any political subdivision or municipality thereof, or from the  
7 United States, any funds or property or any interest therein for the uses and purposes of the  
8 authority and to hold title thereto in trust or otherwise and to bind the authority to apply the same  
9 according to the terms of ~~such~~ the gift or grant;

10           (2) To sue and be sued;

11           (3) To enter into franchises, contracts and agreements with this or any other state or the  
12 United States or any municipality, political subdivision or authority thereof, or any of their agencies  
13 or instrumentalities, or any public or private person, partnership, association, or corporation of this  
14 state or of any other state or the United States, and this state and any ~~such~~ municipality, political  
15 subdivision, authority, or any of their agencies or instrumentalities, and any ~~such~~ public or private

16 person, partnership, association, or corporation ~~is hereby authorized to~~ may enter into contracts  
17 and agreements with ~~such~~ the authority for any term not exceeding 40 years for the planning,  
18 development, construction, acquisition, maintenance, or operation of any facility or for any service  
19 rendered to, for, or by ~~said~~ the authority;

20 (4) To borrow money and evidence the same by warrants, notes, or bonds as hereinafter  
21 provided in this article, and to refund the same by the issuance of refunding obligations;

22 (5) To acquire land and interests in land by gift, purchase, exchange, or eminent domain,  
23 ~~such~~ the power of eminent domain to be exercised within or without the boundaries of the authority  
24 in accordance with ~~provisions of~~ §54-2-1 *et seq.* of this code;

25 (6) To acquire by purchase or lease, construct, install, and operate reservoirs, pipelines,  
26 wells, check dams, pumping stations, water purification plants, and other facilities for the  
27 production, distribution, and utilization of water, ~~and~~ transportation facilities, pump stations, lift  
28 stations, treatment facilities, and other facilities for the transportation and treatment of wastewater,  
29 and inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch  
30 basins, ditches, streams, gulches, flumes, culverts, syphons, retention or detention basins, dams,  
31 floodwalls, levies, pipes, flood control systems, pumping stations, and treatment facilities and to  
32 own and hold ~~such~~ the real and personal property as may be necessary to carry out the purposes  
33 of its organization subject to the advance approval of the Public Service Commission pursuant to  
34 Chapter 24 of this code for any proposed acquisition, construction, installation or operation. The  
35 Public Service Commission shall, within 30 days of a request for approval submitted hereunder,  
36 notify the authority whether its filing is complete. If the Commission determines that additional  
37 information is needed it will inform the agency of the information needed. Notwithstanding the  
38 timeframes for Commission approval of public utility projects set forth in Chapter 24, the  
39 Commission shall act on authority proposals within the following timeframes: ~~Provided, That the~~

40 The Public Service Commission shall act on all proposals submitted hereunder under this  
41 paragraph by an authority that provides only water service or only wastewater service, or by an

42 authority that does not seek a rate increase within 120 days of filing with the commission the date  
43 that the authority files with the Commission a complete application.: ~~Provided, however, That if~~  
44 ~~Failure of the Public Service Commission has not to act~~ acted within such the 120-day period of  
45 time, shall be deemed an approval of such proposal shall be deemed granted: ~~Provided, however,~~  
46 That the Commission's 120-day review period may be extended upon request of the authority.

47 The Public Service Commission shall act on all proposals submitted hereunder for which  
48 the authority seeks a rate increase and the authority provides water and wastewater services,  
49 water and stormwater services, wastewater and stormwater services, or water and wastewater  
50 and stormwater services, within 180 days of the date the authority files with the Commission the  
51 necessary information showing the basis of any project related rates, fees, and charges or other  
52 information as the Commission considers necessary: ~~Provided, That the information shall include~~  
53 an explanation of the amount and basis for assigning and allocating total costs between the water  
54 operations, the wastewater operations, and if applicable the stormwater operations. Failure by  
55 the Commission to act within the 180-day period shall constitute approval thereof. ~~Provided,~~  
56 however, That the 180-day Commission review period may be extended upon request of the  
57 authority.

58 (7) To have the general management, control, and supervision of all the business, affairs,  
59 property, and facilities of the authority, and of the construction, installation, operation, and  
60 maintenance of authority improvements, and to establish regulations relating thereto;

61 (8) To hire and retain agents, employees, engineers, and attorneys and to determine their  
62 compensation. The governing body shall select and appoint a general manager of the authority  
63 who shall serve at the pleasure of said governing body. The general manager shall have training  
64 and experience in the supervision and administration of the system or systems operated by the  
65 authority and shall manage and control the system under the general supervision of ~~said~~ the  
66 governing body. All employees, servants and agents of the authority shall be under the immediate  
67 control and management of said general manager. The general manager shall perform all ~~such~~

68 other duties as may be prescribed by ~~said~~ the governing body and shall give the governing body  
69 a good and sufficient surety company bond in a sum to be set and approved by the governing  
70 body conditioned upon the satisfactory performance of the general manager's duties. The  
71 governing body may also require that any other employees be bonded in such amount as it shall  
72 determine. The cost of ~~said~~ the bonds shall be paid out of the funds of the authority;

73 (9) To adopt and amend rules and regulations not in conflict with the Constitution and laws  
74 of this state, necessary for the carrying on of the business, objects, and affairs of the governing  
75 body and of the authority;

76 (10) To have and exercise all rights and powers necessary or incidental to or implied from  
77 the specific powers granted herein. ~~Such~~ The specific powers ~~shall~~ may not be considered as a  
78 limitation upon any power necessary or appropriate to carry out the purposes of this article.

**§16-13D-9. Revenue bonds.**

1 For constructing or acquiring any water supply, wastewater transportation, or treatment  
2 system, or stormwater system for the authorized purposes of the authority, or necessary or  
3 incidental thereto, and for constructing improvements and extensions thereto, and also for  
4 reimbursing or paying the costs and expenses of creating the authority, the governing body of any  
5 ~~such~~ authority ~~is hereby authorized to~~ may borrow money from time to time and in evidence  
6 thereof issue the revenue bonds of ~~such~~ the authority. ~~Such~~ The revenue bonds are hereby made  
7 a lien on the revenues produced from the operation of the authority's system, but ~~shall~~ may not  
8 be general obligations of the public agency individually organizing the authority or public agencies  
9 participating in the agreement. All revenue bonds issued under this article shall be signed by the  
10 president of the governing body of the authority and attested by the secretary of the governing  
11 body of the authority and shall contain recitals stating the authority under which ~~such~~ the bonds  
12 are issued and that they are to be paid by the authority from the net revenue derived from the  
13 operation of the authority's system and not from any other fund or source and that ~~said~~ the bonds  
14 are negotiable and payable solely from the revenues derived from the operation of the system

15 under control of the authority: *Provided*, That in the case of a regional ~~water and wastewater~~  
16 authority providing combined service, the statutory lien created hereby shall only be a lien on the  
17 revenues of that service funded by the proceeds of the sale of the bonds, it being understood that  
18 ~~such~~ the combined authority shall maintain separate books and records for its ~~water and~~  
19 ~~wastewater~~ operations. ~~Such~~ The bonds may be issued in one or more series, may bear ~~such~~ the  
20 date or dates, may mature at ~~such~~ the time or times not exceeding 40 years from their respective  
21 dates, may bear interest at a rate not exceeding two percent above the interest rate on treasury  
22 notes, bills or bonds of the same term as the term of the bond or bonds the week of closing on  
23 the bond or bonds as reported by the Treasury of the United States, may be payable at ~~such~~ the  
24 times, may be in ~~such~~ the form, may carry ~~such~~ the registration privileges, may be executed in  
25 ~~such~~ the manner, may be payable at ~~such~~ the place or places, may be subject to ~~such~~ the terms  
26 of redemption with or without premium, may be declared or become due before maturity date  
27 thereof, may be authenticated in any manner, and upon compliance with ~~such~~ the conditions, and  
28 may contain ~~such~~ the terms and covenants as may be provided by resolution or resolutions of the  
29 governing body of ~~such~~ the authority. Notwithstanding the form or tenor thereof, and in the  
30 absence of any express recital on the face thereof, that the bond is nonnegotiable, all ~~such~~ the  
31 bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing  
32 the signatures of officers in office on the date of the signing thereof shall be valid and binding for  
33 all purposes notwithstanding that before the delivery thereof any or all of the persons whose  
34 signatures appear thereon shall have ceased to be ~~such~~ officers. Notwithstanding the  
35 requirements or provisions of any other law, any such bonds may be negotiated or sold in ~~such~~  
36 the manner and at ~~such~~ the time or times as is found by the governing body to be most  
37 advantageous, and all such bonds may be sold at ~~such~~ the price that the interest cost of the  
38 proceeds therefrom does not exceed three percent above the interest rate on treasury notes, bills  
39 or bonds of the same term as the term of the bond or bonds the week of closing on the bond or  
40 bonds as reported by the Treasury of the United States, based on the average maturity of ~~such~~

41 the bonds and computed according to standard tables of bond values. Any resolution or  
42 resolutions providing for the issuance of ~~such~~ the bonds may contain ~~such~~ covenants and  
43 restrictions upon the issuance of additional bonds thereafter as may be ~~deemed~~ considered  
44 necessary or advisable for the assurance of the payment of the bonds thereby authorized.

**§16-13D-10. Items included in cost of properties.**

1           The cost of any water supply, wastewater transportation, ~~or~~ treatment system, or  
2 stormwater system acquired or constructed under ~~the provisions of~~ this article shall be ~~deemed~~  
3 considered to include the cost of the acquisition or construction thereof, the cost of all property  
4 rights, easements and franchises ~~deemed~~ considered necessary or convenient therefor and for  
5 the improvements and extensions thereto; interest upon bonds prior to and during construction or  
6 acquisition and for six months after completion of construction or of acquisition of the  
7 improvements and extensions; engineering, fiscal agents and legal expenses; expenses for  
8 estimates of cost and of revenues, expenses for plans, specifications and surveys; other  
9 expenses necessary or incident to determining the feasibility or practicability of the enterprise,  
10 administrative expense, and such other expenses as may be necessary or incident to the  
11 financing herein authorized, and the construction or acquisition of the properties and the placing  
12 of same in operation, and the performance of the things herein required or permitted, in  
13 connection with any thereof.

**§16-13D-11. Bonds may be secured by trust indenture.**

1           In the discretion and at the option of the governing body of the authority, ~~such~~ the bonds  
2 may be secured by a trust indenture by and between the authority and a corporate trustee, which  
3 may be a trust company or bank having powers of a trust company within or without the State of  
4 West Virginia, but no ~~such~~ trust indenture shall may convey, mortgage, ~~or~~ create any lien upon  
5 the water supply, wastewater transportation, ~~or~~ treatment system, or stormwater system, or any  
6 part thereof of the authority or its member public agencies. The resolution authorizing the bonds  
7 and fixing the details thereof may provide that ~~such~~ the trust indenture may contain ~~such~~



8 provisions for protecting and enforcing the rights and remedies of bondholders as may be  
9 reasonable and proper, not in violation of law, including covenants setting forth the duties of the  
10 authority and the members of its governing body and officers in relation to the construction or  
11 acquisition of the water supply, wastewater transportation, or treatment system, or stormwater  
12 system, and the improvement, extension, operation, repair, maintenance and insurance thereof,  
13 and the custody, safeguarding and application of all moneys, and may provide that all or any part  
14 of the construction work shall be contracted for, constructed and paid for, under the supervision  
15 and approval of consulting engineers employed or designated by the governing body and  
16 satisfactory to the original bond purchasers, their successors, assignees or nominees, who may  
17 be given the right to require the security given by contractors and by any depository of the  
18 proceeds of bonds or revenues of the water supply, the wastewater transportation, or treatment  
19 system, or stormwater system, or other money pertaining thereto be satisfactory to ~~such~~ the  
20 purchasers, their successors, assignees or nominees. ~~Such~~ The indenture may set forth the rights  
21 and remedies of the bondholders and ~~such~~ the trustee.

**§16-13D-12. Sinking fund for revenue bonds.**

1 At or before the time of the issuance of any bonds under this article the governing body of  
2 the authority shall by resolution or in the trust indenture provide for the creation of a sinking fund  
3 and for monthly payments into ~~such~~ the fund from the revenues of the water supply, wastewater  
4 transportation or treatment system, or stormwater system operated by the authority such sums in  
5 excess of the cost of maintenance and operation of ~~such~~ the properties as will be sufficient to pay  
6 the accruing interest and retire the bonds at or before the time each will respectively become due  
7 and to establish and maintain reserves therefor. All sums which are or should be, in accordance  
8 with ~~such~~ the provisions, paid into ~~such~~ the sinking fund shall be used solely for payment of  
9 interest and for the retirement of ~~such~~ bonds at or prior to maturity as may be provided or required  
10 by such resolutions.

**§16-13D-13. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.**

1           The governing body of any such authority ~~shall have power to~~ may insert enforceable  
2 provisions in any resolution authorizing the issuance of bonds relating to the collection, custody,  
3 and application of revenues of the authority from the operation of the water supply, wastewater  
4 transportation or treatment system, or stormwater system under its control and to the enforcement  
5 of the covenants and undertakings of the authority. ~~In the event there shall be~~ If there is a default  
6 in the sinking fund provisions ~~aforsaid~~ or in the payment of the principal or interest on any of  
7 ~~such the~~ bonds or, ~~in the event if~~ the authority or its governing body or any of its officers, agents,  
8 or employees, shall fail or refuse to comply with ~~the provisions of~~ this article, or shall default in  
9 any covenant or agreement made with respect to the issuance of ~~such the~~ bonds or offered as  
10 security therefor, then any holder or holders of ~~such the~~ bonds and any such trustee under the  
11 trust indenture, if there ~~be is~~ one, ~~shall have the right~~ may by suit, action, mandamus, or other  
12 proceeding instituted in the circuit court for the county or any of the counties wherein the authority  
13 extends, or in any other court of competent jurisdiction, ~~to~~ enforce and compel performance of all  
14 duties required by this article or undertaken by the authority in connection with the issuance of  
15 ~~such the~~ bonds, and upon application of any such holder or holders, or ~~such the~~ trustee, ~~such the~~  
16 court shall, upon proof of ~~such the~~ defaults, appoint a receiver for the affairs of the authority and  
17 its properties, which receiver so appointed shall forthwith directly, or by his or her agents and  
18 attorneys, enter into and upon and take possession of the affairs of the authority and each and  
19 every part thereof, and hold, use, operate, manage, and control the ~~same~~ authority, and in the  
20 name of the authority exercise all of the rights and powers of ~~such the~~ authority as ~~shall be~~ is  
21 ~~deemed~~ considered expedient, and ~~such the~~ receiver ~~shall have power and authority to~~ may  
22 collect and receive all revenues and apply ~~same them~~ them in ~~such the~~ manner as the court shall direct.  
23 Whenever the default causing the appointment of ~~such the~~ receiver ~~shall have~~ has been cleared

24 and fully discharged and all other defaults ~~shall~~ have been cured, the court may ~~in its discretion~~  
25 and after ~~such~~ the notice and hearing as it ~~deems~~ considers reasonable and proper direct the  
26 receiver to surrender possession of the affairs of the authority to its governing body. ~~Such~~ The  
27 receiver so appointed ~~shall have no power to~~ may not sell, assign, mortgage, or otherwise dispose  
28 of any assets of the authority except as hereinbefore provided.

**§16-13D-14. Statutory mortgage lien created; foreclosure thereof.**

1           There ~~shall be and~~ is hereby created a statutory mortgage lien upon ~~such~~ the water supply,  
2 wastewater transportation or treatment system, or stormwater system of the authority, which shall  
3 exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and ~~such~~  
4 the system shall remain subject to ~~such~~ the statutory mortgage lien until payment in full of all  
5 principal of and interest on ~~such~~ the bonds.

**§16-13D-15. Rates and charges.**

1           The governing body shall by appropriate resolution make provisions for the payment of  
2 said bonds by fixing rates, fees and charges, for the use of all services rendered by ~~such~~ the  
3 authority, which rates, fees and charges shall be sufficient to pay the costs of operation,  
4 improvement and maintenance of the authority's water supply, ~~or~~ wastewater transportation  
5 and/or treatment system, or stormwater system, to provide an adequate depreciation fund,  
6 provide an adequate sinking fund to retire ~~said~~ the bonds and pay interest thereon when due, and  
7 to create reasonable reserves for ~~such~~ those purposes. ~~Said~~ The fees, rates or charges shall be  
8 sufficient to allow for miscellaneous and emergency or unforeseen expenses. The authority shall  
9 maintain a working capital reserve in an amount of no less than one-eighth of all expenses  
10 incurred by the authority on an annual basis: *Provided*, That this working capital reserve shall be  
11 separate and distinct from, and in addition to: (1) any repair and replacement fund that may be  
12 required by bond covenants, and (2) any other funds held by the authority. The resolution of the  
13 governing body authorizing the issuance of revenue bonds may include agreements, covenants  
14 or restrictions ~~deemed~~ considered necessary or advisable by the governing body to effect the

15 efficient operation of the system and to safeguard the interests of the holders of the revenue  
16 bonds and to secure the payment of the bonds and the interest thereon. The rates, fees and  
17 charges for water, wastewater, or both, established by the authority shall be subject to review and  
18 approval by the Public Service Commission pursuant to Chapter 24 of this code.

19 The Public Service Commission shall, within 30 days of a rate filing, notify the authority  
20 whether its rate filing is complete. If the Commission determines that additional information is  
21 needed it will inform the authority of the information needed. Notwithstanding the timeframes for  
22 Commission review of rate applications set forth in Chapter 24, the Commission shall act on  
23 authority rate applications within the following timeframes:

24 (1) The Public Service Commission shall act on a rate filing by an authority that provides  
25 only water service or only wastewater service within 120 days of the date that the authority files  
26 with the Commission the necessary information showing the basis of the rates, fees, and charges  
27 or other information as the commission considers necessary. Failure of the Commission to act  
28 within the 120-day time period shall constitute approval thereof: *Provided*, That the 120-day  
29 period may be extended upon request of the authority.

30 (2) The Public Service Commission shall act on a rate filing by an authority that provides  
31 water and wastewater services, water and stormwater services, wastewater and stormwater  
32 services, or water and wastewater and stormwater services, within 180 days of the date that the  
33 authority files with the Commission the necessary information showing the basis of the rates, fees,  
34 and charges or other information as the Commission considers necessary: *Provided*, That the  
35 information shall include an explanation of the amount and basis for assigning and allocating total  
36 costs between the water operations, the wastewater operations, and if applicable the stormwater  
37 operations. Failure by the Commission to act within the 180-day period shall constitute approval  
38 thereof: *Provided*, That the 180-day Commission review period may be extended upon request of  
39 the authority.

40 Notwithstanding the provisions of any other law or charter to the contrary, any regional  
41 stormwater authority may provide storm, flood and surface water drainage management services  
42 to areas located outside its jurisdiction from which stormwater affects or drains into the area  
43 served by the regional stormwater authority, and any regional stormwater authority may assess  
44 fees for providing storm, flood and surface water draining management services to be paid by the  
45 owner of each and every lot, parcel of real estate or building that in any way uses or is served by  
46 the stormwater system. The Public Service Commissioner has no jurisdiction to regulate the rates  
47 charged for storm, flood, and surface water drainage management services.

**§16-13D-17. Exemption of bonds from taxation.**

1 ~~Said~~ The bonds and the interest thereon, together with all properties and facilities of the  
2 authority owned or used in connection with the water, ~~or~~ wastewater system, or stormwater  
3 system, and all the moneys, revenues, ~~and~~ other income of ~~such~~ the authority derived from ~~such~~  
4 the water, ~~or~~ wastewater system, or stormwater system shall be exempt from all taxation by the  
5 state of West Virginia or any county, municipality, political subdivision, or agency thereof.

**§16-13D-21. Citation of article.**

1 This article may be known and cited as the “Regional Water and Wastewater, and  
2 Stormwater Authority Act”.

**§16-13D-22. Acquisition by condemnation.**

1 For the purpose of acquiring any lands, rights or easements considered necessary or  
2 incidental for the purposes of the authority, each authority has the right of eminent domain within  
3 or without the boundaries of the authority to the same extent and to be exercised in the same  
4 manner as now or hereafter provided by law for the right of eminent domain by cities, incorporated  
5 towns and other municipal corporations: *Provided*, That the power of eminent domain provided in  
6 this section does not extend to highways, road and drainage easements, or stormwater facilities  
7 constructed, owned or operated by the West Virginia Division of Highways without the express  
8 agreement of the Commissioner of Highways.

NOTE: The purpose of this bill is to establish the operation of regional water, wastewater, and stormwater authorities.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.