

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

House Bill 2955

BY DELEGATES RILEY AND KEATON

[Passed March 9, 2023; in effect ninety days from passage.]

1 AN ACT 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 of water authorities; enabling public agencies to
6 cooperate to manage stormwater; authorizing public agencies to create a regional
7 stormwater authority; authorizing public agencies to create a regional authority providing
8 any combination of services; providing that public agencies may manage stormwater and
9 creating regional authorities to manage stormwater, regional water, and wastewater;
10 specifying the required contents of the regional authority's organizational document;
11 requiring the filing of the organizational document; providing that public agencies may
12 enter into contracts; requiring the Public Service Commission to confirm that all required
13 contract-related documentation has been filed; stating requirements for the governing
14 body of a regional authority; granting powers to the governing body of a regional authority;
15 stating procedures by which a regional authority may seek a rate increase from the Public
16 Service Commission; authorizing the governing body of any regional authority to issue
17 revenue bonds; providing for the creation of and payments into a sinking fund; regulating
18 management of the sinking fund; creating a statutory mortgage lien upon the stormwater
19 system of any regional authority; granting the governing body authority to make provisions
20 for the payment of stormwater-system-related bonds; requiring the regional authority to
21 maintain a certain working capital reserve; requiring the Public Service Commission to
22 review rate filings by regional authorities; granting authorities the right of eminent domain.

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 a public agency, or more than one public agency
2 to make the most efficient use of its or their powers relating to public water supplies, the
3 transportation and treatment of wastewater, and the management of stormwater by enabling a
4 public agency, or more than one public agency to cooperate with other public agencies on a basis
5 of mutual advantage and thereby to provide services and facilities to participating public agencies
6 and to provide for the establishment for the purpose of a quasi-governmental public corporation
7 which shall be known as a regional water authority, a regional wastewater authority, a regional
8 stormwater authority, or any combination thereof. The function of the regional water authority shall
9 be to secure a source of water on a scale larger than is feasible for an individual public agency or
10 agencies acting alone, and to sell water to public service districts, municipalities, publicly and
11 privately owned water utilities, and others. The function of the regional wastewater authority shall
12 be to enable a public agency or agencies to provide the most economical method of transportation
13 and treatment of wastewater and to provide transportation and treatment services to public
14 service districts, municipalities, publicly and privately owned wastewater utilities, and others. The
15 function of the regional stormwater authority shall be to enable a public agency or agencies to
16 provide storm, flood and surface water drainage management services to public service districts,
17 municipalities, publicly and privately owned stormwater utilities, and others. The function of a
18 regional authority that provides any combination of water, wastewater, or stormwater service shall
19 be to enable a public agency or agencies to carry out the joint functions of a water, wastewater,
20 or stormwater regional water authority.

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

§16-13D-2. Definitions.

1 For the purposes of this article:

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

5 (b) The term "public agency" means any municipality, county, public service district, or
6 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 any combination thereof. Appropriate action by ordinance, resolution, or otherwise
12 pursuant to law of the governing bodies of the participating public agency or agencies required
13 by the provisions of Chapter 8 and Chapter 16 of this code shall be necessary before any
14 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 (d) Any agreement between two or more public agencies to organize an authority shall
26 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 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 (e) Any agreement between two or more public agencies to organize an authority may be
39 amended to include additional public agencies by consent of two-thirds of the signatories to the
40 agreement, if no terms of agreement are changed, otherwise a new agreement with the new
41 public agency shall be drawn. Where fewer than three public agencies come together to form an
42 authority, both parties shall consent to the amendment of the agreement to include additional
43 public agencies.

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

54 (g) Prior to taking effect, the organizational document of the agency acting individually or
55 the agreement between two or more agencies made hereunder shall be filed with the clerk of the
56 county commission of each county in which the agency acting individually, or in the case of an

57 authority organized by agreement of two or more agencies, in the county where each member of
58 the authority is located and the agreement then also shall be filed with the Secretary of State,
59 accompanied by a certificate from the clerk of the county commission of the county, or counties,
60 where filed, stating that the agreement has been filed in that county.

61 (h) A public agency which enters into an agreement made hereunder may not offer or
62 provide water, wastewater, or stormwater services in competition with another public agency
63 entering into the agreement.

64 (i) A public agency which enters into an agreement made hereunder may not withdraw
65 from the agreement until such time as the outstanding bonded indebtedness of the authority is
66 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, 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 the personnel or services for the operation of the authority as may
4 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, any public agency, whether or not a party to an agreement pursuant to this article, and
7 any publicly or privately owned water distribution company may enter into contracts with any
8 regional authority created pursuant to this article for the purchase of water from the authority or
9 the sale of water to the authority, the treatment of water by either party, and the distribution or
10 transmission of water by either party and any such authority may enter into the contracts. The
11 Public Service Commission shall, within 30 days of the filing date, notify the parties to the contract
12 whether they have filed all required documentation regarding the contract. If the Commission

13 determines that additional information is needed it will inform the agency of the information
14 needed. The Public Service Commission shall act on a filing submitted hereunder within 90 days
15 of the date that the Commission has before it all necessary information from the parties to the
16 contract. Failure of the Commission to act on the filing within the 90-day period shall constitute
17 approval thereof: *Provided*, That the 90-day Commission review period may be extended upon
18 request of the parties to the contract.

19 Any public agency, whether or not a party to an agreement pursuant to this act, and any
20 publicly or privately owned wastewater transportation or treatment system may enter into
21 contracts with any regional authority created pursuant to this article for the transportation and
22 treatment of wastewater by either party and any authority may enter into the contracts, subject to
23 the prior approval of the Public Service Commission pursuant to §24-2-12 of this code. The Public
24 Service Commission shall, within 30 days of the filing date, notify the parties to the agreement
25 whether they have filed all required documentation regarding the contract. If the Commission
26 determines that additional information is needed it will inform the agency of the information
27 needed. The Public Service Commission shall act on a filing submitted hereunder within 90 days
28 of the date that the Commission has before it all necessary information from the parties to the
29 contract. Failure by the Commission to act within the 90-day period shall constitute approval
30 thereof: *Provided*, That the 90-day Commission review period may be extended on upon request
31 of the parties to the contract.

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

36 Any contract may include an agreement for the purchase of water not actually received or
37 the treatment of wastewater not actually treated, or the collection and disposition of stormwater
38 not actually collected and disposed. No contract may be made for a period in excess of 40 years,

39 but renewal options may be included therein. The obligations of any public agency under any
40 contract shall be payable solely from the revenues produced from the public agency's water,
41 stormwater and wastewater system, and the Public Service Commission, in the case of a public
42 agency whose rates are subject to its jurisdiction, shall permit the public agency to recover through
43 its rates revenues sufficient to meet its obligations under 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, whichever is appropriate.
5 Thereupon the authority shall be a quasi-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 governing body of the public agency. When the authority is organized by more than one
3 public agency, each participating public agency shall appoint at least one member.

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

9 For purposes of this section, "rate-paying residential customer" means a person who: (1)
10 In the case of water or wastewater service, is physically connected to and actively receiving
11 residential utility services from the authority; or (2) in the case of stormwater service, has
12 stormwater conveyed away from the residential property by facilities owned by the authority. Each
13 member's full term shall be not less than one year nor more than four years and initial terms shall

14 be staggered in accordance with procedures set forth in the organization document or agreement
15 provided for in §16-13D-3 of this code, and amendments thereto. In the case of an authority which
16 is made up by the agreement of two public agencies, each public agency shall appoint at least
17 two representatives to the governing body.

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

22 Each member shall have one vote in any matter that comes before the authority for
23 decision. However, when the authority is organized by more than one public agency, the member
24 agencies shall, in the original agreement establishing the authority, set forth any special weighing
25 of the votes based upon population served, volumes of water purchased, volumes of wastewater
26 treated, volumes of stormwater collected and disposed numbers of customers, or some other
27 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 operating as an authority as provided in this article, powers, authorities,
2 and privileges of the authority shall include, but are not limited to, the following:

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

8 (2) To sue and be sued;

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

12 state or of any other state or the United States, and this state and any municipality, political
13 subdivision, authority, or any of their agencies or instrumentalities, and any public or private
14 person, partnership, association, or corporation may enter into contracts and agreements with the
15 authority for any term not exceeding 40 years for the planning, development, construction,
16 acquisition, maintenance, or operation of any facility or for any service rendered to, for, or by the
17 authority;

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

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

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

38 The Public Service Commission shall act on all proposals submitted hereunder by an
39 authority that provides only water service or only wastewater service, or by an authority that does
40 not seek a rate increase within 120 days of the date that the authority files with the Commission
41 a complete application. Failure of the Public Service Commission to act within the 120-day period
42 shall be deemed an approval of such proposal: *Provided*, That the Commission's 120-day review
43 period may be extended upon request of the authority.

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

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

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

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

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

73 (10) To have and exercise all rights and powers necessary or incidental to or implied from
74 the specific powers granted herein. The specific powers may not be considered as a limitation
75 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 authority may borrow money from time to time and in evidence thereof issue the revenue bonds
6 of the authority. The revenue bonds are hereby made a lien on the revenues produced from the
7 operation of the authority's system, but may not be general obligations of the public agency
8 individually organizing the authority or public agencies participating in the agreement. All revenue
9 bonds issued under this article shall be signed by the president of the governing body of the
10 authority and attested by the secretary of the governing body of the authority and shall contain
11 recitals stating the authority under which the bonds are issued and that they are to be paid by the
12 authority from the net revenue derived from the operation of the authority's system and not from
13 any other fund or source and that the bonds are negotiable and payable solely from the revenues

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

40 contain covenants and restrictions upon the issuance of additional bonds thereafter as may be
41 considered necessary or advisable for the assurance of the payment of the bonds thereby
42 authorized.

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

1 The cost of any water supply, wastewater transportation, treatment system, or stormwater
2 system acquired or constructed under this article shall be considered to include the cost of the
3 acquisition or construction thereof, the cost of all property rights, easements and franchises
4 considered necessary or convenient therefor and for the improvements and extensions thereto;
5 interest upon bonds prior to and during construction or acquisition and for six months after
6 completion of construction or of acquisition of the improvements and extensions; engineering,
7 fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for
8 plans, specifications and surveys; other expenses necessary or incident to determining the
9 feasibility or practicability of the enterprise, administrative expense, and such other expenses as
10 may be necessary or incident to the financing herein authorized, and the construction or
11 acquisition of the properties and the placing of same in operation, and the performance of the
12 things herein required or permitted, in 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, the bonds may
2 be secured by a trust indenture by and between the authority and a corporate trustee, which may
3 be a trust company or bank having powers of a trust company within or without the State of West
4 Virginia, but no trust indenture may convey, mortgage, or create any lien upon the water supply,
5 wastewater transportation or treatment system, or stormwater system, or any part thereof of the
6 authority or its member public agencies. The resolution authorizing the bonds and fixing the
7 details thereof may provide that the trust indenture may contain provisions for protecting and
8 enforcing the rights and remedies of bondholders as may be reasonable and proper, not in
9 violation of law, including covenants setting forth the duties of the authority and the members of

10 its governing body and officers in relation to the construction or acquisition of the water supply,
11 wastewater transportation or treatment system, or stormwater system, and the improvement,
12 extension, operation, repair, maintenance, and insurance thereof, and the custody, safeguarding,
13 and application of all moneys, and may provide that all or any part of the construction work shall
14 be contracted for, constructed and paid for, under the supervision and approval of consulting
15 engineers employed or designated by the governing body and satisfactory to the original bond
16 purchasers, their successors, assignees or nominees, who may be given the right to require the
17 security given by contractors and by any depository of the proceeds of bonds or revenues of the
18 water supply, the wastewater transportation or treatment system, or stormwater system, or other
19 money pertaining thereto be satisfactory to the purchasers, their successors, assignees or
20 nominees. The indenture may set forth the rights and remedies of the bondholders and the
21 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 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 the properties as will be sufficient to pay the
6 accruing interest and retire the bonds at or before the time each will respectively become due and
7 to establish and maintain reserves therefor. All sums which are or should be, in accordance with
8 the provisions, paid into the sinking fund shall be used solely for payment of interest and for the
9 retirement of bonds at or prior to maturity as may be provided or required 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 may insert enforceable provisions in any
2 resolution authorizing the issuance of bonds relating to the collection, custody, and application of

3 revenues of the authority from the operation of the water supply, wastewater transportation or
4 treatment system, or stormwater system under its control and to the enforcement of the covenants
5 and undertakings of the authority. If there is a default in the sinking fund provisions or in the
6 payment of the principal or interest on any of the bonds or, if the authority or its governing body
7 or any of its officers, agents, or employees, shall fail or refuse to comply with this article, or shall
8 default in any covenant or agreement made with respect to the issuance of the bonds or offered
9 as security therefor, then any holder or holders of the bonds and any such trustee under the trust
10 indenture, if there is one, may by suit, action, mandamus, or other proceeding instituted in the
11 circuit court for the county or any of the counties wherein the authority extends, or in any other
12 court of competent jurisdiction, enforce and compel performance of all duties required by this
13 article or undertaken by the authority in connection with the issuance of the bonds, and upon
14 application of any such holder or holders, or the trustee, the court shall, upon proof of the defaults,
15 appoint a receiver for the affairs of the authority and its properties, which receiver so appointed
16 shall forthwith directly, or by his or her agents and attorneys, enter into and upon and take
17 possession of the affairs of the authority and each and every part thereof, and hold, use, operate,
18 manage, and control the authority, and in the name of the authority exercise all of the rights and
19 powers of the authority as is considered expedient, and the receiver may collect and receive all
20 revenues and apply them in the manner as the court shall direct. Whenever the default causing
21 the appointment of the receiver has been cleared and fully discharged and all other defaults have
22 been cured, the court may and after the notice and hearing as it considers reasonable and proper
23 direct the receiver to surrender possession of the affairs of the authority to its governing body.
24 The receiver so appointed may not sell, assign, mortgage, or otherwise dispose of any assets of
25 the authority except as hereinbefore provided.

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

1 There is hereby created a statutory mortgage lien upon the water supply, wastewater
2 transportation or treatment system, or stormwater system of the authority, which shall exist in
3 favor of the holders of bonds hereby authorized to be issued, and each of them, and the system

4 shall remain subject to the statutory mortgage lien until payment in full of all principal of and
5 interest on the bonds.

§16-13D-15. Rates and charges.

1 The governing body shall by appropriate resolution make provisions for the payment of
2 the bonds by fixing rates, fees, and charges, for the use of all services rendered by the authority,
3 which rates, fees, and charges shall be sufficient to pay the costs of operation, improvement, and
4 maintenance of the authority's water supply, wastewater transportation and/or treatment system,
5 or stormwater system, to provide an adequate depreciation fund, provide an adequate sinking
6 fund to retire the bonds and pay interest thereon when due, and to create reasonable reserves
7 for those purposes. The fees, rates or charges shall be sufficient to allow for miscellaneous and
8 emergency or unforeseen expenses. The authority shall maintain a working capital reserve in an
9 amount of no less than one-eighth of all expenses incurred by the authority on an annual basis:
10 *Provided*, That this working capital reserve shall be separate and distinct from, and in addition to:
11 (1) any repair and replacement fund that may be required by bond covenants, and (2) any other
12 funds held by the authority. The resolution of the governing body authorizing the issuance of
13 revenue bonds may include agreements, covenants, or restrictions considered necessary or
14 advisable by the governing body to effect the efficient operation of the system and to safeguard
15 the interests of the holders of the revenue bonds and to secure the payment of the bonds and the
16 interest thereon. The rates, fees, and charges for water, wastewater, or both, established by the
17 authority shall be subject to review and approval by the Public Service Commission pursuant to
18 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, however*, That the 180-day Commission review period may be extended upon
39 request of 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
45 the owner of each and every lot, parcel of real estate or building that in any way uses or is served
46 by the stormwater system. The Public Service Commission has no jurisdiction to regulate the
47 rates charged for storm, flood, and surface water drainage management services.

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

1 The bonds and the interest thereon, together with all properties and facilities of the
2 authority owned or used in connection with the water, wastewater system, or stormwater system,
3 and all the moneys, revenues, and other income of the authority derived from the water,
4 wastewater system, or stormwater system shall be exempt from all taxation by the state of West
5 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
6 in 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.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

.....
Speaker of the House of Delegates

.....
President of the Senate

The within is this the.....
Day of, 2023.

.....
Governor