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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

*Com. Sub. for*  
HOUSE BILL No. 4399

(By Delegate *Pruziore and Browning*)



Passed March 12, 1994

In Effect 90 Days from Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 4399**

(By DELEGATES PREZIOSO AND BROWNING)

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[Passed March 12, 1994; in effect ninety days from passage.]

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AN ACT to amend and reenact section fourteen, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section fifteen-a; to amend and reenact sections two and four, article two of said chapter; and to amend and reenact section seven-a, article three of said chapter, all relating to general obligation bonds, the terms and provisions of such bonds, the redemption prior to maturity of such bonds, the refunding of such bonds, the terms and provisions of such refunding bonds, the redemption prior to maturity of such refunding bonds and the escrowing of funds for bond issues, including any redemption premium therefor.

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

That section fourteen, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section fifteen-a; that sections two and four, article two of said chapter be amended and reenacted; and that section seven-a, article three of said chapter be amended and reenacted, all to read as follows:

**ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.**

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

1 If three fifths of all the votes cast for and against the  
2 proposition to incur debt and issue negotiable bonds  
3 shall be in favor of the same, the governing body of the  
4 political division shall, by resolution, authorize the  
5 issuance of such bonds in an amount not exceeding the  
6 amount stated in the proposition; fix the date thereof;  
7 set forth the denominations in which they shall be  
8 issued, which denominations shall be one hundred  
9 dollars or multiples thereof; determine the rate or rates  
10 of interest which the bonds shall bear, which rate or  
11 rates of interest shall be within the maximum rate  
12 stated in the proposition submitted to vote and payable  
13 semiannually; prescribe the medium with which the  
14 bonds shall be payable; require that the bonds shall be  
15 made payable at the office of the state board of  
16 investments and at such other place or places as the  
17 body issuing the same may designate; provide for a  
18 sufficient levy to pay the annual interest on the bonds  
19 and the principal at maturity; fix the times within the  
20 maximum period, as contained in the proposition  
21 submitted to vote, when the bonds shall become payable,  
22 which shall not exceed thirty-four years from the date  
23 thereof; determine whether all or a portion of the bonds  
24 shall be subject to redemption prior to the maturity  
25 thereof and, if so, the terms of the redemption; and  
26 prescribe a form for executing the bonds authorized.

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

1 All or a portion of such bonds may be subject to  
2 redemption prior to the maturity thereof, at the option  
3 of the body issuing the same, at such times and prices  
4 and on such terms as shall be designated in the  
5 resolution required by section fourteen of this article.  
6 The body issuing the bonds may not levy taxes in  
7 connection with the redemption of any bonds in excess  
8 of the taxes that would have been levied for the payment  
9 of principal of and interest on such bonds in such year.

**ARTICLE 2. REFUNDING BONDS.**

**§13-2-2. Terms of refunding bonds; time, place and amount of payments.**

1 Upon determining to issue such refunding bonds, the  
2 governing body of such political division shall, by  
3 resolution, authorize the issuance of such bonds in an  
4 amount not exceeding the principal amount permitted  
5 by section one of this article, fix the date thereof, the  
6 rate or rates of interest which such bonds shall bear,  
7 payable semiannually, and require that the bonds shall  
8 bear, payable at the office of the state board of  
9 investments and at such other place or places as the  
10 body issuing the same may designate. Such resolution  
11 shall also provide that such bonds shall mature serially  
12 in annual installments beginning not more than three  
13 years after the date thereof, and the last of such annual  
14 installments shall mature in not exceeding thirty-four  
15 years from the date of such bonds. The amount payable  
16 in each year on the refunding bonds, together with any  
17 unrefunded or unissued bonds of the prior issue, may be  
18 so fixed that, when the amount of interest is added to  
19 the principal amount to be paid during the respective  
20 years, the total amount payable in each year shall be as  
21 nearly equal as practicable; or such bonds may be made  
22 payable in annual installments as nearly equal in  
23 principal as may be practicable.

24 All or a portion of the refunding bonds may be subject  
25 to redemption prior to the maturity thereof, at the  
26 option of the body issuing the same, at such times and  
27 prices and on such terms as shall be designated in the  
28 resolution required by this section. The body issuing the  
29 refunding bonds may not levy taxes in connection with  
30 the redemption of any refunding bonds in excess of the  
31 taxes that would have been levied for the payment of  
32 principal of and interest on such refunding bonds in  
33 such year.

**§13-2-4. Disposition of bonds; cancellation of original bonds.**

1 The governing body of the political body of the  
2 political subdivision issuing bonds under this article  
3 may sell the same or any part thereof and collect the

4 proceeds, or such bonds may be delivered to the holder  
5 or holders of the bonds to be refunded in exchange  
6 therefor.

7 It is the intention of this article to authorize political  
8 divisions to issue bonds for the purpose of refunding  
9 outstanding bonds without thereby contracting any  
10 additional indebtedness, and it shall be conditional upon  
11 the delivery of any refunding bonds that the bonds to  
12 be refunded be canceled and paid simultaneously with  
13 the issuance and delivery of such refunding bonds:  
14 *Provided*, That such refunding bonds shall be issued in  
15 an amount sufficient to effect the refunding and may  
16 include an amount sufficient to pay (1) the principal  
17 amount outstanding of the bonds to be refunded, (2)  
18 interest accrued or to accrue to the date of maturity or  
19 the date of redemption of the bonds to be refunded  
20 (which need not necessarily be on the first available  
21 redemption date), (3) any redemption premiums to be  
22 paid thereon, (4) any reasonable expenses incurred in  
23 connection with such refunding and (5) any other  
24 reasonable costs deemed appropriate by the state,  
25 including without limitation, the expenses of preparing  
26 and delivering the refunding bonds, legal fees, financial  
27 advisor fees, consultant fees, and other expenses  
28 incurred in connection with the issuance, sale and  
29 delivery of the refunding bonds.

30 For all purposes of this section, bonds shall be  
31 considered to have been canceled and paid in advance  
32 of their due date or date of redemption if there shall  
33 have been deposited with the West Virginia municipal  
34 bond commission either:

35 (a) Moneys, sufficient to pay when and as due at  
36 maturity or prior redemption all amounts of principal,  
37 redemption premium, if any, and interest payable on  
38 such bonds; or

39 (b) Direct obligations of the United States of America  
40 or the state of West Virginia, or obligations fully and  
41 irrevocably secured as to the payment of both principal  
42 and interest by such direct obligations, the payment on  
43 which when due will provide moneys, sufficient to pay

44 when and as due at maturity or prior redemption all  
45 amounts of principal, redemption premium, if any, and  
46 interest payable on such bonds.

47 All such amounts shall be set aside and held in trust  
48 and irrevocably dedicated solely to the payment of such  
49 bonds, except that amount in excess of the amounts  
50 required for the payment of the bonds so refunded may  
51 be applied to the payment of costs related to the  
52 issuance, carrying, insuring or servicing the refunding  
53 bonds, including costs of credit or market enhancement  
54 services, such as letters of credit, remarketing arrange-  
55 ments and similar services. Any amount deposited  
56 pursuant to this section may include amounts already  
57 held on deposit by the West Virginia municipal bond  
58 commission for the payment of the bonds to be refunded.

**ARTICLE 3. MUNICIPAL BOND COMMISSION.**

**§13-3-7a. Escrowing bond issues.**

1 (a) All bond issues for which the commission is serving  
2 as fiscal agent shall be considered to have been canceled  
3 and paid in advance of their due date or date of  
4 redemption if there shall have been deposited with the  
5 commission either:

6 (1) Moneys sufficient to pay when and as due at  
7 maturity or prior redemption all amounts of principal,  
8 redemption premium, if any, and interest payable on  
9 such bonds; or

10 (2) Securities of a quality in which the commission is  
11 authorized by law to invest moneys under its control, the  
12 principal of and interest on which will provide moneys  
13 sufficient to pay when and as due at maturity or prior  
14 redemption all amounts of principal, redemption  
15 premium, if any, and interest payable on such bonds.

16 (b) The moneys and securities held by the commission  
17 pursuant to this section shall be held by the commission  
18 in trust and irrevocably dedicated solely to the payment  
19 of principal or redemption price, if applicable, of and  
20 interest on the bonds: *Provided*, That this action shall  
21 be taken solely at the direction of the issuer. Following  
22 such irrevocable commitment of moneys and securities

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23 in trust, funds on account with the commission for said  
24 bonds which are surplus may be immediately returned  
25 to the issuer.

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

*[Handwritten Signature]*

Chairman Senate Committee

*Ernest E. Moore*

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*[Handwritten Signature]*

Clerk of the Senate

*Donald L. Hoff*  
Clerk of the House of Delegates

*Scott Budette*  
President of the Senate

*Chuck Culbert*

Speaker of the House of Delegates

The within is approved this the 30th day of March 1994.

*Gaston Caperton*  
Governor



PRESENTED TO THE

GOVERNOR

Date

3/28/94

Time

9:38am