

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 340

BY SENATORS GAUNCH, ASHLEY, CARMICHAEL,
FACEMIRE, FERNS, HALL, MULLINS, PALUMBO, PREZIOSO,
ROMANO, SYNDER, TRUMP, WOELFEL AND PLYMALE

[Introduced January 21, 2016;

Referred to the Committee on Government
Organization.]

1 A BILL to amend and reenact §7-3-9 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §8-16-17 of said code; to amend and reenact §8-27-16 of said code; to amend
3 and reenact §10-2A-16 of said code; and to amend and reenact §17-17-22 of said code,
4 all relating to payment by West Virginia Municipal Bond Commission or state sinking fund
5 commission or the governing body issuing bonds of principal and interest on bonds owned
6 by the United States or any governmental agency or department of the United States.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 3. COUNTY PROPERTY.

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

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

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

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

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

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

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.

§8-16-17. Sinking fund; sinking fund commission; transfer of funds; purchase of outstanding bonds.

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

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

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

40 by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds
41 owned by the United States or any governmental agency or department thereof may be made by
42 the governing body directly thereto.

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

§8-27-16. Sinking fund; sinking fund commission; purchase of outstanding bonds.

1 Before the issuance of any bonds under the provisions of this article, the authority shall,
2 by resolution, provide for a sinking fund for the payment of the bonds and the interest thereon,
3 and the payment of the charges of banking institutions or trust companies for making payment of
4 such bonds and interest, out of the net revenues of said system, and, in this connection, shall set
5 aside and pledge a sufficient amount of the net revenues of the system for such purpose, such
6 net revenues being hereby defined to mean the revenues of the system remaining after the
7 payment of the reasonable expense of administration, maintenance, repair and operation, such
8 amount to be paid by such authority into the sinking fund at intervals, to be determined by
9 resolution adopted prior to the issuance of the bonds, for: (a) The interest upon such bonds as
10 such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest;
11 (c) the payment of the bonds as they fall due, or, if all the bonds mature at one time, the proper
12 maintenance of a sinking fund sufficient for the payment thereof at such time; and (d) a margin
13 for safety and for the payment of premium upon bonds retired by call or purchase as provided in
14 this article. Such required payments shall constitute a first charge upon all the net revenues of
15 such authority. Prior to the issuance of any bonds, the authority may, by resolution, be given the
16 right to use or direct the state sinking fund commission to use such sinking fund, or any part
17 thereof, in the purchase of any of the outstanding bonds payable therefrom, at the market prices
18 thereof, but not exceeding the price, if any, at which the same shall in the same year be payable
19 or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled, and shall not

20 again be issued. In addition to the payments into the sinking fund provided for above, the authority
21 may at any time in its discretion transfer all or any part of the balance of the net revenues, after
22 reserving an amount deemed by such authority sufficient for maintenance, repair and operation
23 for an ensuing period of not less than twelve months and for depreciation, into the sinking fund.

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

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

ARTICLE 2A. ATHLETIC ESTABLISHMENTS.

§10-2A-16. Sinking fund.

1 At or before the issuance of any such bonds, the board shall, by resolution, provide for a
2 sinking fund for the payment of the bonds and the interest thereon, and the payment of the
3 charges of banks or trust companies for making payment of such bonds, and interest, out of the
4 net revenues of said athletic establishment, and shall set aside and pledge a sufficient amount of
5 the net revenues of the athletic establishment to be paid by the board into such sinking fund at
6 intervals to be determined by resolution adopted prior to the issuance of the bonds, for: (a) The

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

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 17. TOLL BRIDGES.

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

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

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

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

- 48 directed to allocate to said commission, from the state road fund, an amount sufficient to pay the
49 interest on said bonds and/or the principal thereof, as either may become due and payable.

NOTE: The purpose of this bill is to authorize an alternative means of payment of principal and interest on bonds owned by the United States or any governmental agency or department thereof.

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