

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-29-82

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982



ENROLLED

Com. Sub. for
HOUSE BILL No. 1887

(By Mr. Albright + Mrs. Tompkins)



Passed March 12, 1982

In Effect From Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 1887

(By MR. ALBRIGHT and MR. TOMPKINS)

[Passed March 12, 1982; in effect from passage.]

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-seven, relating to the West Virginia education loan bond; short title; declaration of purpose; definitions; functions and powers of board of regents; expenses of board; acquisition of assets; conveyance of loan funding deposit; issuance of bonds; trust agreement to secure bonds; credit of state not pledged; collection of revenues; application of funds from sale of bonds; rights of bondholders; refunding of bonds; investment of board funds; bonds as legal investments; annual report of board; competitive bidding waived; powers of board unrestricted; article to be construed liberally; and exemption from taxation.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-seven, to read as follows:

ARTICLE 27. WEST VIRGINIA EDUCATION LOAN BOND PROGRAM.

§18-27-1. Short title.

- 1 This article may be referred to and cited as the "West Vir-
- 2 ginia Independent Higher Education Loan Bond Program."

§18-27-2. Declaration of purpose.

1 It is declared that for the benefit of the people of the
2 state of West Virginia, the conduct and increase of their
3 commerce, the protection and enhancement of their welfare,
4 the development of continued prosperity and the improvement
5 of their health and living conditions, it is essential that this
6 and future generations of youth be given the fullest op-
7 portunity to learn and to develop their intellectual and mental
8 capacities and skills; that to achieve these ends it is of the
9 utmost importance that the students attending institutions of
10 higher education located in West Virginia have reasonable
11 alternative to enhance their financial access to such institu-
12 tions; that reasonable financial access to institutions of higher
13 education will assist such youth in achieving the required
14 levels of learning and development of their intellectual and
15 mental capacities and skills; that it is the purpose of this
16 article to provide a measure of assistance and an alternative
17 method to enable students and the families of students at-
18 tending institutions of higher education located in West Vir-
19 ginia to appropriately and prudently finance the cost or a
20 portion of the cost of such higher education; and that it is
21 the intent of this article to supplement federal guaranteed
22 higher education loan programs, other student loan programs
23 and grant or scholarship programs to provide the needed
24 additional options for the financing of a student's higher edu-
25 cation in execution of the public policy set forth above.

§18-27-3. Definitions.

1 The following words used in this article shall, unless the
2 context clearly indicates a different meaning, be construed
3 as follows:

- 4 (a) "Board" means the West Virginia board of regents.
- 5 (b) "Bonds" means revenue bonds, notes or other evi-
6 dences of indebtedness of the board issued under this article.
- 7 (c) "Bond resolution" means the resolution or resolutions
8 of the board and the trust agreement, if any, authorizing
9 the issuance of and providing for the terms and conditions
10 applicable to bonds.

11 (d) "Borrower" means a student who has received an
12 education loan or any parent who has received or agreed to
13 pay an education loan.

14 (e) "Default insurance" means insurance insuring educa-
15 tion loans, authority loans or bonds against default.

16 (f) "Default reserve fund" means a fund established pur-
17 suant to a bond ordinance for the purpose of securing educa-
18 tion loans, authority loans or bonds.

19 (g) Cost of attendance is the amount defined by the
20 institution for the purpose of the guaranteed student loan
21 program as defined under Title IV, part B, of the "Higher
22 Education Act of 1965" as now or hereafter amended.

23 (h) "Education loan" means a loan which is made by an
24 institution of higher education to a student or parents of a
25 student, or both, in amounts not in excess of the maximum
26 amounts specified in this section, to finance the student's
27 attendance at the instiution. The maximum loan amount may
28 not exceed:

29 (1) In the case of a borrower who is a student, the stu-
30 dent's cost of attendance for the period of time for which
31 the loan is made minus the following amounts applicable to
32 such period of time:

33 (i) The amount of grant which the student receives or
34 could receive under the federal Pell Grant program autho-
35 rized under Title IV, part A, of the "Higher Education Act
36 of 1965," as now or hereafter amended, whether or not the
37 student has made application for such grant;

38 (ii) The maximum net guaranteed student loan proceeds
39 which the student receives or could receive pursuant to Title
40 IV, part B, of the "Higher Education Act of 1965," as now
41 or hereafter amended, whether or not the student has made
42 application for such loan;

43 (iii) The amount of scholarships, grants or other nonre-
44 payable assistance received from government agencies, educa-
45 tional institutions or private institutions or organizations;

46 (2) (A) In the case of a borrower who is a parent of an
47 eligible student, the student's cost of attendance minus:

48 (i) The amounts determined pursuant to subparagraphs (i),
49 (ii) and (iii) of paragraph (1) of this subdivision; and

50 (ii) The amount of loan which the student receives pur-
51 suant to paragraph (1) of this subdivision.

52 (B) The combined maximum loan amount of both parents
53 may not exceed the maximum amount as determined under
54 paragraph (2) of this subdivision:

55 (i) "Loan funding deposit" means moneys, guarantees or
56 other property deposited by an institution of higher education
57 with the board or a trustee for the purpose of (1) providing
58 security for bonds, (2) funding a default reserve fund, (3)
59 acquiring default insurance or (4) defraying costs of the
60 board, such moneys or properties to be in such amounts as
61 deemed necessary by the board as a condition for such
62 institution's participation in the board's programs.

63 (j) "Institution" means a not for profit educational institu-
64 tion which is not owned or controlled by the state or any
65 political subdivision, agency, instrumentality, district or mu-
66 nicipality thereof, which is authorized by law to provide a
67 program of education beyond the high school level and which:

68 (1) Admits as regular students only individuals having a
69 certificate of graduation from a high school or the recognized
70 equivalent of such certificate;

71 (2) Provides an educational program for which it awards
72 a bachelor's degree or provides an educational program, ad-
73 mission into which is conditioned upon the prior attainment
74 of a bachelor's degree or its equivalent, for which it awards
75 a postgraduate degree, or provides not less than a two-
76 year program which is acceptable for full credit toward an
77 associate degree, or offers not less than a two-year program
78 in engineering, mathematics or the physical or biological
79 sciences which is designed to prepare the student to work as
80 a technician and at a semiprofessional level in engineering,
81 scientific or other technological fields which require the
82 understanding and application of basic engineering, scientific
83 or mathematical principles or knowledge;

84 (3) Is accredited by a nationally recognized accrediting
85 agency or association such as the north central association
86 of colleges and high schools;

87 (4) Does not discriminate in the admission of students on
88 the basis of race, color or creed;

89 (5) Has a governing board which possesses its own
90 sovereignty; and

91 (6) Has a governing board, or its delegated institutional
92 officials, which possess final authority in all matters of local
93 control, including educational policy, choice of personnel,
94 determination of program and financial management.

95 (k) "Parent" means any parent or guardian of a student
96 at an institution of higher education.

**§18-27-4. Powers of board; determination of qualified financings
and establishment of financing programs; establishing
criteria for and guidelines encompassing the types of
and qualifications for education loan financing pro-
grams.**

1 The board may:

2 (a) Issue bonds for the purpose of making board loans to
3 institutions of higher education participating in a program of
4 the board for the express purpose of providing education
5 loans. The criteria and guidelines established by the board for
6 its education loan financing programs shall include such eligi-
7 bility standards for borrowers as the board determines are
8 necessary or desirable in order to effectuate the purposes of
9 this article, including the following: (i) Each student shall have
10 a certificate of admission or enrollment at a specific partici-
11 pating institution of higher education, (ii) each student or his
12 or her parents shall satisfy such financial qualifications as the
13 board shall establish to effectuate the purposes of this article,
14 (iii) each student and his or her parents shall submit such in-
15 formation as may be required by the board to his or her
16 institution of higher education.

17 The board is authorized to contract with financial institu-
18 tions and other qualified loan origination and servicing organi-

19 zations, which shall assist in prequalifying borrowers for edu-
20 cation loans and which shall service and administer each edu-
21 cation loan. Each education loan's fees shall include a portion,
22 if necessary, to cover the applicable pro rata cost of such a
23 servicing organization.

24 The board is authorized to establish specific criteria govern-
25 ing the eligibility of institutions of higher education to partici-
26 pate in its programs, the making of board and education loans
27 and provisions for default.

28 (b) Receive and accept from any source, loans, contribu-
29 tions or grants for or in aid of a board education loan financ-
30 ing program or any portion thereof and, when required, to use
31 such funds, property or labor only for the purposes for which
32 it was loaned, contributed or granted.

33 (c) Make board loans to institutions of higher education
34 and require that the proceeds thereof be used for making
35 education loans and paying costs and fees in connection there-
36 with.

37 (d) Charge to and apportion among participating institu-
38 tions of higher education its administrative and operating costs
39 and expenses incurred in the exercise of the powers and duties
40 conferred by this article.

41 (e) Borrow working capital funds and other funds as may
42 be necessary for start-up and continuing operations, as long as
43 such funds are borrowed in the name of the board only. Such
44 borrowings shall be limited obligations of the character de-
45 scribed in section ten of this article and shall be payable solely
46 from revenues of the board or the proceeds of bonds pledged
47 for that purpose.

48 (f) Examine records and financial reports of participating
49 institutions of higher education, and to examine records and
50 financial reports of any contractor organization or institution
51 retained under this section.

52 (g) Authorize its officers, agents and employees to take such
53 action and do such things as are necessary or desirable in order
54 to carry out and effectuate the purposes of this article.

55 (h) The board shall require that board loans be used solely
56 to make education loans. The board shall require that insti-
57 tutions of higher education require that each borrower under
58 an education loan use the proceeds solely for the cost of at-
59 tendance and that each such borrower shall so certify.

§18-27-5. Expenses of authority; limitation of liability for expense.

1 All expenses incurred in carrying out the provisions of this
2 article shall be payable solely from funds provided under the
3 authority of this article and, except as authorized under sub-
4 division (e) of section four, no liability may be incurred by
5 the board beyond the extent to which moneys have been pro-
6 vided under this article.

**§18-27-6. Acquisition of certain moneys, endowments and prop-
erties and guarantees thereto.**

1 The board may establish specific guidelines relating to the
2 deposits of certain moneys, guarantees, endowments or prop-
3 erties by institutions of higher education which would provide
4 prudent security for education loans funding programs, author-
5 ity loans, education loans or for bonds and establish guidelines
6 relating to guarantees of or contracts to purchase education
7 loans or bonds by such institutions or by financial institutions
8 or others. A default reserve fund may be established for each
9 series or issue of bonds. In this regard, the board may receive
10 such moneys, endowments, properties and guarantees as it
11 considers appropriate and, if necessary, to take title in the
12 name of the board or in the name of a participating institution
13 of higher education or a trustee. A guarantee for one hundred
14 percent of principal and interest by the higher education assis-
15 tance foundation or by a letter of credit from a financial insti-
16 tution chartered in West Virginia or a nationally chartered
17 financial institution with stockholders reserve of at least twenty-
18 five million dollars may constitute an alternate security option.

**§18-27-7. Conveyance of loan funding deposit after payment of
principal and interest.**

1 When the principal of and interest on bonds of the board
2 issued to finance the cost of an education loan financing pro-
3 gram or programs, including any refunding bonds issued to

4 refund and refinance such bonds, have been fully paid and re-
5 tired or when adequate provision has been made to fully pay
6 and retire the same, and all other conditions of the bond reso-
7 lution authorizing the same have been satisfied and the lien
8 created by such bond resolution has been released in accord-
9 ance with the provisions thereof, the board shall promptly do
10 such things and execute such deeds and conveyances as are
11 necessary and required to convey any remaining moneys, prop-
12 erties and other assets comprising loan funding deposits to the
13 institutions of higher education which furnished the same in
14 proportion to the amounts furnished by the respective insti-
15 tutions of higher education.

§18-27-8. Bonds.

1 (a) The board may from time to time issue bonds for any
2 purpose authorized under this article and all such bonds or
3 other obligations of the board issued pursuant to this article
4 shall be and are hereby declared to be negotiable for all pur-
5 poses notwithstanding their payment from limited source and
6 without regard to any other law or laws.

7 (b) The board may not have outstanding at any one time
8 bonds in an aggregate principal amount exceeding thirty mil-
9 lion dollars, excluding bonds issued to refund the bonds of the
10 board.

11 (c) The bonds of each issue shall be payable solely out of
12 revenues of the board pertaining to the program relating to
13 such bond issue, including principal and interest on board
14 loans and education loans, payments by institutions of higher
15 education, banks, insurance companies or others pursuant to
16 letters of credit or purchase agreements, investment earnings
17 from funds or accounts maintained pursuant to the bond reso-
18 lution, insurance proceeds, loan funding deposits, proceeds of
19 sales of education loans, proceeds of refunding bonds and fees,
20 charges and other revenues of the board from such program.

21 (d) The bonds may be issued as serial bonds or as term
22 bonds, or both. The bonds shall be authorized by a bond
23 resolution of the board and shall bear such date or dates, ma-
24 ture at such time or times not exceeding the year following the

25 last year in which the final payments in an education loan
26 series portfolio are due, or thirty years, whichever is sooner,
27 from their respective dates of issue, bear interest at such rate
28 or rates, be payable at such time or times, be in such denomi-
29 nations, be in such form, either coupon or fully registered,
30 carry such registration and conversion privileges, be payable
31 in lawful money of the United States of America at such places,
32 and be subject to such terms of redemption as such bond reso-
33 lution may provide. The bonds shall be executed by the manual
34 or facsimile signatures of such officers of the board as are
35 designated by the board. The bonds shall be sold in such
36 manner and at such prices as the board determines. Pending
37 preparation of the definitive bonds, the board may issue in-
38 terim receipts or certificates which shall be exchanged for such
39 definitive bonds.

40 (e) Any bond resolution may contain provisions, which
41 shall be a part of the contract with the holders of the bonds to
42 be authorized, as to:

43 (i) Pledging or assigning the revenues derived from the
44 authority loans and education loans with respect to which such
45 bonds are to be issued; (ii) the fees and other amounts to be
46 charged, and the sums to be raised in each year thereby, and
47 the use, investment and disposition of such sums; (iii) the set-
48 ting aside of loan funding deposits, debt service reserves, capi-
49 talized interest accounts, cost of issuance accounts and sink-
50 ing funds, and the regulation, investment and disposition there-
51 of; (iv) limitations on the use of the education loans; (v) limi-
52 tations on the purpose to which or the investments in which the
53 proceeds of sale of any issue of bonds then or thereafter to be
54 issued may be applied; (vi) limitations on the issuance of addi-
55 tional bonds, the terms upon which additional bonds may be
56 issued and secured, the terms upon which additional bonds
57 may rank on a parity with, or be subordinate or superior to,
58 other bonds; (vii) the refunding of outstanding bonds; (viii) the
59 procedure, if any, by which the terms of any contract with
60 bondholders may be amended, or abrogated, the amount of
61 bonds the holders of which must consent thereto, and the
62 manner in which such consent may be given; (ix) defining the
63 acts or omissions to act which shall constitute a default in

64 the duties of the board to holders of its obligations and pro-
65 viding the rights or remedies of such holders in the event of a
66 default; (x) providing for guarantees, pledges of endowments,
67 letters of credit, property or other security for the benefit of
68 the holders of such bonds; and (xi) any other matters relating
69 to the bonds which the board considers desirable.

70 (f) Neither the members of the board nor any person exe-
71 cuting the bonds shall be liab'le personally on the bonds or be
72 subject to any personal liability or accountability by reason of
73 the issuance thereof.

74 (g) The board may purchase its bonds out of any funds
75 available therefor. The board may hold, pledge, cancel or re-
76 sell such bonds subject to and in accordance with agree-
77 ments with bondholders.

78 (h) The board may refund any of its bonds. Such refund-
79 ing bonds shall be issued in the same manner as other bonds
80 of the board.

§18-27-9. Trust agreement to secure bonds.

1 In the discretion of the board any bonds issued under
2 the provisions of this article may be secured by a trust
3 agreement by and between the board and a corporate trustee
4 or trustees, which may be any trust company or bank in the
5 state of West Virginia having the powers of a trust company.
6 The bond resolution providing for the issuance of bonds so
7 secured shall pledge the revenues to be received by the
8 board, including any or all of the revenues specified in
9 subsection (c), section eight. This article may contain
10 such provisions for protecting and enforcing the rights and
11 remedies of the bondholders as may be reasonable and proper
12 and not in violation of law, including particularly such
13 provisions as have hereinabove been specifically authorized
14 to be included in any bond resolution of the board, and may
15 restrict the individual right of action by bondholders. In
16 addition to the foregoing, any trust agreement may contain
17 such other provisions as the board considers reasonable and
18 proper for the security of the bondholders. All expenses
19 incurred in carrying out the provisions of the trust agree-

20 ment may be treated as a part of the cost of the operation of
21 an education loan program.

§18-27-10. Bonds as obligation of board only.

1 Bonds issued under authority of this article shall be obli-
2 gations of the board only, and not of the state of West
3 Virginia. Bonds issued under authority of this article shall
4 state upon the face of each bond that they represent and
5 constitute a debt of the board, but not of the state of West
6 Virginia within the meaning of the provisions of the con-
7 stitution or statutes of the state of West Virginia; and they
8 do not constitute a pledge of the full faith and credit of the
9 board or of the state of West Virginia. The bonds may
10 not grant to the owners or holders thereof any right to
11 have the board or the Legislature levy any taxes or appro-
12 priate any funds for the payment of the principal thereof
13 or interest thereon. Such bonds are payable, and shall state
14 that they are payable, solely from the revenues pledged for
15 their payment in accordance with the bond resolution.

16 Nothing in this article may be construed to authorize
17 the board or any department, board, commission or other
18 agency to create an obligation of the state of West Virginia
19 within the meaning of the constitution or the code of West
20 Virginia.

§18-27-11. Pledge of revenues.

1 The board shall fix, revise, charge and collect fees and
2 is empowered to contract with any person, partnership,
3 association or corporation, or other body, public or private,
4 in respect thereof. Each agreement entered into by the
5 board with an institution of higher education shall provide
6 that the fees and other amounts payable by the institution
7 of higher education with respect to any program of the
8 board shall be sufficient at all times, (a) to pay its share
9 of the administrative costs and expenses of such program,
10 (b) to pay the principal of, the premium, if any, and the
11 interest on outstanding bonds of the board, issued in respect
12 of such program to the extent that other revenues of the
13 board pledged for the payment of the bonds are insufficient
14 to pay the bonds as they become due and payable, (c) to

15 create and maintain reserves which may but need not be
16 required or provided for in the bond resolution relating
17 to such bonds of the board, and (d) to establish and maintain
18 whatever education loan servicing, control or audit procedures
19 are deemed to be necessary to the prudent operations of the
20 board. The board shall pledge the revenues from each pro-
21 gram, as described in subsection (c), section eight of this
22 article, as security for the issue of bonds relating to such
23 program. Such pledge shall be valid and binding from the
24 time when the pledge is made; the revenues so pledged by
25 the board shall immediately be subject to the lien of such
26 pledge without any physical delivery thereof or further act,
27 and the lien of any such pledge shall be valid and binding
28 against all parties having claims of any kind in tort, contract
29 or otherwise against the board or any participating institution
30 of higher education, irrespective of whether such parties have
31 notice thereof. Neither the bond resolution nor any financing
32 statement, continuation statement or other instrument by
33 which a pledge is created or by which the board's interest
34 in revenues is assigned need be filed or recorded in any
35 public records in order to perfect the lien thereof as against
36 third parties except that a copy thereof shall be filed in the
37 records of the board and with the state treasurer.

§18-27-12. Funds from sale of bonds as trust funds; application of funds.

1 All moneys received by or on behalf of the board pursuant
2 to the authority of this article, whether as proceeds from the
3 sale of bonds or as revenues, are trust funds to be held and
4 applied solely as provided in this article. Any officer with
5 whom, or any bank or trust company with which such moneys
6 are deposited shall act as trustee of such moneys and shall hold
7 and apply the same for the purposes hereof, subject to such
8 regulations as this article and the bond resolution authorizing
9 the bonds of any issue may provide.

§18-27-13. Rights of bondholders.

1 Any holder of bonds issued pursuant to this article or a
2 trustee under a trust agreement entered into pursuant to this
3 article, except to the extent that their rights are restricted by

4 any bond resolution, may, by any suitable form of legal pro-
 5 ceedings, protect and enforce any rights under the laws of this
 6 state or granted by the bond resolution. Such rights include the
 7 right to compel the performance of all duties of the board re-
 8 quired by this article or the bond resolution; to enjoin unlawful
 9 activities; and in the event of default with respect to the pay-
 10 ment of any principal of, premium, if any, and interest on any
 11 bond or in the performance of any covenant or agreement on
 12 the part of the board in the bond resolution, to apply to the
 13 circuit court to appoint a receiver to administer and operate
 14 the education loan program or programs, the revenues of which
 15 are pledged to the payment of principal of, premium, if any,
 16 and interest on such bonds, with full power to pay, and to
 17 provide for payment of, principal of, premium, if any, and
 18 interest on such bonds, and with such powers, subject to the
 19 direction of the court, as are permitted by law and are ac-
 20 corded receivers, excluding any power to pledge additional
 21 revenues of the board to the payment of such principal, pre-
 22 mium and interest.

**§18-27-14. Refunding bonds; purpose; proceeds; investment of
 proceeds.**

1 (a) The board is authorized to provide for the issuance of
 2 bonds of the board for the purpose of refunding any bonds of
 3 the board then outstanding, including the payment of any
 4 redemption premium thereon and any interest accrued or to
 5 accrue to the earliest or any subsequent date of redemption,
 6 purchase or maturity of such bonds.

7 (b) The proceeds of any such bonds issued for the purpose
 8 of refunding outstanding bonds may, in the discretion of the
 9 board, be applied to the purchase or retirement at maturity or
 10 redemption of such outstanding bonds either on their earliest or
 11 any subsequent redemption date or upon the purchase or at the
 12 maturity thereof and may, pending such application, be placed
 13 in escrow to be applied to such purchase or retirement at
 14 maturity or redemption on such date as may be determined by
 15 the board.

16 (c) Any such escrowed proceeds, pending such use, may be
 17 invested and reinvested in direct obligations of the United

18 States of America, maturing at such time or times as are ap-
19 propriate to assure the prompt payment of the principal of
20 and interest and redemption premium, if any, on the outstand-
21 ing bonds to be so refunded. The interest, income and profits,
22 if any, earned or realized on any such investment may also
23 be applied to the payment of the outstanding bonds to be so
24 refunded. After the terms of the escrow have been fully satis-
25 fied and carried out, any balance of such proceeds and inter-
26 est, income and profits, if any, earned or realized on the in-
27 vestments thereof shall be returned to the institution of higher
28 education for use by it in any lawful manner.

29 (d) All such refunding bonds are subject to this article in
30 the same manner and to the same extent as other revenue
31 bonds issued pursuant to this article.

§18-27-15. Investment of funds of board.

1 Except as otherwise provided in subsection (c), section
2 fourteen of this article, the board may invest any funds in
3 (i) direct obligations of the United States of America, (ii) obli-
4 gations as to which the timely payment of principal and inter-
5 est is fully guaranteed by the United States of America, (iii)
6 obligations of the federal intermediate credit banks, federal
7 banks for cooperatives, federal land banks, federal home loan
8 banks, federal national mortgage association, government na-
9 tional mortgage association and the student loan marketing as-
10 sociation, (iv) certificates of deposit or time deposits consti-
11 tuting direct obligations of any bank: *Provided*, That invest-
12 ments may be made only in those certificates of deposit or
13 time deposits in banks which are insured by the federal de-
14 posit insurance corporation if then in existence, and (v) in
15 withdrawable capital accounts or deposits of state or federal
16 chartered savings and loan associations which are insured by
17 the federal savings and loan insurance corporation. Any such
18 securities may be purchased at the offering or market price
19 thereof at the time of such purchase. All such securities so
20 purchased shall mature or be redeemable on a date or dates
21 prior to the time when, in the judgment of the board, the funds
22 so invested will be required for expenditure. The express
23 judgment of the board as to the time when any funds will be

24 required for expenditure or be redeemable is final and con-
25 clusive.

§18-27-16. Bonds as legal investments.

1 All banks, bankers, trust companies, savings banks and in-
2 situations, building and loan associations, savings and loan
3 associations, investment companies, insurance companies and
4 associations, and all executor, administrators, guardians, trus-
5 tees and other fiduciaries may legally invest any sinking funds,
6 moneys or other funds belonging to them or within their con-
7 trol in any bonds issued pursuant to this article.

§18-27-17. Account of activities; receipts and expenditures; annual report; audit.

1 The board shall keep an accurate account of all its ac-
2 tivities and of all its receipts and expenditures and shall
3 annually in the month of January make a report thereof to
4 its members, to the governor, the state treasurer, the clerk
5 of the House of Delegates, the clerk of the Senate, and the
6 commissioner of the department of finance and administration.
7 Such report is a public record and open for inspection at
8 the offices of the board during normal business hours. The
9 report shall include: (a) Summaries of all applications by
10 institutions of higher education for education loan financing
11 assistance presented to the members of the board during
12 such fiscal year; (b) summaries of all education loan programs
13 which have received any form of financial assistance from
14 the board during such year; (c) the nature and amount of
15 all such assistance; (d) a report concerning the financial con-
16 dition of the various education loan series portfolios; and (e)
17 projected activities of the board for the next fiscal year,
18 including projections of the total amount of financial assist-
19 ance anticipated and the amount of revenue bonds or other
20 evidences of indebtedness that will be necessary to provide
21 the projected level of assistance during the next fiscal year.
22 The auditor of the state of West Virginia may investigate
23 the affairs of the board, may examine the properties and
24 records of the board, and may prescribe methods of account-
25 ing and the rendering of periodical reports in relation to
26 financings undertaken by the board.

§18-27-18. Waiver of competitive bidding.

1 Competitive bidding requirements of the code of West
2 Virginia or any other similar requirements that may be
3 lawfully waived are waived by this section and any require-
4 ment of competitive bidding or other restriction imposed
5 on the procedure for award of contracts is not applicable to
6 any action taken under authority of this article.

§18-27-19. Institution powers; interest rates.

1 Notwithstanding any other provision of law, institutions
2 may borrow money from the board, make education loans and
3 take all other actions and do such things as are necessary
4 or convenient to consummate the transactions contemplated
5 under this article. It is lawful for the board to establish,
6 charge, contract for and receive any amount or rate of interest
7 or compensation with respect to board loans and for par-
8 ticipating institutions to charge, contract for and receive any
9 amount or rate of interest or compensation with respect to
10 education loans.

**§18-27-20. Article as alternative method; application of bond law;
powers not subject to supervision or regulation by
other element or government.**

1 The foregoing sections of this article provide a complete,
2 additional and alternative method for the doing of the things
3 authorized thereby and shall be regarded as supplemental
4 and additional to, and the limitations imposed by this article
5 do not limit or otherwise affect powers or rights conferred
6 by other laws, and the issuance of bonds and refunding bonds
7 under this article need not comply with the requirements of
8 any other law applicable to the issuance of bonds. Except
9 as otherwise expressly provided in this article, none of the
10 powers granted to the board under this article shall be subject
11 to the supervision or regulation or require the approval or
12 consent of any municipality or political subdivision or any
13 department, division, commission, board, body, bureau, official
14 or agency thereof or of the state.

§18-27-21. Liberal construction of article.

1 This article being necessary for the welfare of the state

2 and its inhabitants, shall be liberally construed to effect its
3 purpose.

§18-27-22. Exercise of powers as essential public function; exemption from taxation.

1 The exercise of the powers granted by this article will
2 be in all respects for the benefit of the people of this
3 state, for the increase of their commerce, welfare and pros-
4 perity, and for the improvement of their health and living
5 conditions, and as the operation and maintenance of a pro-
6 gram by the board or its agent will constitute the performance
7 of an essential public function, neither the board nor its
8 agent shall be required to pay any taxes or assessments,
9 including mortgage recording taxes, upon or in respect of
10 a program, and moneys or any property acquired by, retained
11 by or used by the board or its agents under the provisions
12 of this article and the income therefrom shall at all times
13 be free from taxation of every kind by the state and by the
14 municipalities and other political subdivisions of the state.

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

R. P. Baylor

Chairman Senate/Committee

Tony E. Whellow

Chairman House Committee

Originating in the House.

Takes effect from passage.

Todd C. Welch

Clerk of the Senate

V. Blankenship

Clerk of the House of Delegates
Warren R. McAnis

President of the Senate

W. H. Lee, Jr.

Speaker House of Delegates

The within is approved this the 29
day of March, 1982.

John N. Dyer

Governor

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SECY. OF STATE