WEST VIRGINIA CODE CHAPTER 13 ARTICLE 2G

WV Legislature

§13-2G-1. Short title.

This article shall be known and may be cited as the "State Refunding Bond Act."

WV Legislature

§13-2G-2. Definitions.

As used in this article, unless the context otherwise requires:

(a) "Bonds" means general obligation bonds, review bonds, notes or other debt instruments issued by the state, a state agency or a state authority.

(b) "Code" means the Code of West Virginia, 1931, as amended.

(c) "Legislature" means the Legislature of this state.

(d) "Refunding bonds" means bonds, notes or other debt instruments issued to refund all or any part of general obligation bonds, revenue bonds, notes or other debt instruments heretofore or hereafter issued or lawfully assumed by the state, a state agency or a state authority pursuant to the provisions of this code.

(e) "State" means the State of West Virginia, a state agency or a state authority.

(f) "State agency" means any office, department, cabinet, board, commission, entity, bureau, division, public corporation, agency, or instrumentality of the state authorized to issue bonds.

(g) "State authority" means any authority authorized to issue bonds, including, but without limitations, the university of West Virginia board of trustees and the board of directors of the state college system.

(h) "Swap agreement" means an agreement which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate opinion, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any similar agreement or any combination of the foregoing.

WV Legislature

§13-2G-3. Issuance of refunding bonds.

The state may, in the manner and subject to the limitations and conditions contained in this article, issue its refunding bonds, at a public or private sale, for the purpose of refunding the bonds of the state then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. A determination by the state that any refunding is advantageous or necessary, or that any of the outstanding obligations should be called for redemption on the first or any subsequent available redemption date or permitted to remain outstanding until their respective dates of maturity, shall be conclusive: Provided, That a determination by the state to issue its refunding bonds as provided in this article is subject to the provisions of the debt management act set forth in article six-a, chapter twelve of this code.

WV Legislature

§13-2G-4. Security for refunding bonds.

Refunding bonds may be secured by a pledge of: (a) The same source of security as the bonds to be refunded; or (b) such other security as the state may lawfully pledge, or both.

WV Legislature

§13-2G-5. Principal amount, use of sinking and reserve funds.

(a) The total amount of refunding bonds to be issued under this chapter shall be an amount sufficient to effect the refunding and may include an amount sufficient to pay (1) the principal amount outstanding of the bonds to be refunded, (2) interest accrued or to accrue to the date of maturity or the date of redemption of the bonds to be refunded (which need not necessarily be on the first available redemption date), (3) any redemption premiums to be paid thereon, (4) any reasonable expenses incurred in connection with such refunding and (5) any other reasonable costs deemed appropriate by the state, including without limitation, the expenses of preparing and delivering the refunding bonds, legal fees, financial advisor fees, consultant fees, and other expenses incurred in connection with the issuance, sale and delivery of the refunding bonds.

(b) Any money in a sinking fund or reserve fund or other fund for the bonds to be refunded may be used to pay the principal of, premium, if any, or interest on the outstanding bonds to be refunded or may be deposited in a sinking fund or reserve fund or other fund for the refunding bonds.

WV Legislature

§13-2G-6. Terms of refunding bonds; time, place and amount of payments.

Upon determining the issue of such refunding bonds, the state shall, by resolution, authorize the issuance of such bonds in an amount not exceeding the amount permitted by this article, fix the date thereof, the rate or rates of interest which such bonds shall bear and when and where they are payable.

WV Legislature

§13-2G-7. Sale of refunding bonds at above or below par value.

All refunding bonds issued by the state may be sold at a price equal to, above or below par value and accrued interest as the state may direct. Refunding bonds may also be sold at a zero (0) rate of interest or at an original issue discount.

WV Legislature

§13-2G-8. Swap agreements.

The state may from time to time enter into one or more swap agreements that it determines to be necessary or desirable in connection with, or incidental to, or in lieu of the issuance of its refunding bonds. Swap agreements entered into by the state shall contain such provisions, including payment, term, security, default and remedy provisions, and shall be with such parties, as the state shall determine to be necessary or desirable after due consideration to the creditworthiness of such parties.

WV Legislature

§13-2G-9. Certain provisions of the code or act of Legislature to apply to refunding bonds.

All the provisions of this code or any act of the Legislature, relating to bonds issued for original indebtedness and insofar as such provisions may be applicable, shall apply to the same extent and with equal force and effect to refunding bonds issued under the provisions of this article.

WV Legislature

§13-2G-10. Provision for payment of the bonds to be refunded.

(a) It is the intention of this article to authorize the state to issue bonds for the purpose of refunding outstanding bonds without thereby contracting any additional indebtedness, and it shall be conditional upon the delivery of any refunding bonds that sufficient funds are held in trust to provide for the payment of the principal of, premium, if any, and interest on the bonds to be refunded. It is the further intention of this article that any amounts received by the issuance of any refunding bonds pursuant to this article be used solely for the purposes set forth in subsection (a), section five of this article and not be used for incurrence of additional debt.

(b) For all purposes of this section, bonds shall be considered to have been canceled and paid in advance of their due date or date of redemption if there shall have been deposited in trust for the benefit of holders of the bonds to be refunded:

(1) Moneys sufficient to pay when and as due all amounts of principal and interest payable on such bonds; or

(2) Direct obligations of the United States of America or the state, or obligations fully and irrevocably secured as to the payment of both principal and interest by such direct obligations the payment on which when due will provide moneys, sufficient to pay when and as due all amounts of principal and interest payable on such bonds.

(c) All such amounts shall be set aside and held in trust and irrevocably dedicated solely to the payment of such bonds, except that amounts in excess of the amounts required for the payment of the bonds so refunded may be applied to the payment of costs related to the issuance, carrying, insuring or servicing the refunding bonds, including costs of credit or market enhancement services, such as letters of credit, remarketing arrangements and similar services. Any amount deposited pursuant to this section may include amounts already held on deposit in trust for the payment of the bonds to be refunded.

WV Legislature

§13-2G-11. Bonds previously issued by the board of regents.

In connection with or incident to the refunding of any bonds previously issued by the board of regents pursuant to any prior enactment of chapter eighteen of the code, or the board of regents predecessor in interest, the university of West Virginia board of trustees and the board of directors of the state college system, as the transferees of all powers, duties and authorities of the board of regents pursuant to chapter eighteen-b of the code, are authorized to make one or more written agreements with regard to which entity is obligated to provide for the payment of such bonds previously issued by the board of regents and with regard to the allocation of revenues to be dedicated to the payment of refunding bonds.

WV Legislature

§13-2G-12. Article sufficient authority for issuing refunding bonds.

This article shall, without reference to any other act of the Legislature, be full authority for the issuance, sale and exchange of bonds in this article authorized. No order, ordinance, resolution or proceeding in respect to the issuance of any bonds hereunder shall be necessary except such as are required by this article. No publication of any notice, order, ordinance or proceeding relating to the issuance of such bonds shall be necessary.

WV Legislature

§13-2G-13. Issuance without election or creation of a new debt.

The issuance, sale or exchange of bonds authorized in this article may be had without an election and shall not be deemed to create a new debt as long as provision has been made to pay the principal of, premium, if any, and interest on the bonds to be refunded as provided in section seven of this article.

WV Legislature

§13-2G-14. Bonds exempt from taxation.

All bonds of the state, a state agency or state authority issued hereunder shall be exempt from all state, county, and municipal taxes, and the exemption includes income, inheritance and property taxes.

WV Legislature