WEST VIRGINIA CODE CHAPTER 17 ARTICLE 26

WV Legislature

§17-26-1. Definitions.

For purposes of this article:

(a) "Commissioner" means the West Virginia commissioner of highways continued pursuant to section one, article two-a of this chapter;

(b) "Amendment" means the amendment to the Constitution of this state entitled "Safe Roads Amendment of 1996" as approved by referendum in November, 1996;

(c) "State road bond" means any bond or bonds issued by the state pursuant to section two of this article;

(d) "Division" means the West Virginia Division of Highways established under section one, article two-a, of this chapter, or any successor to all or any substantial part of its powers and duties; and

(e) "Secretary" means the secretary of the West Virginia Department of Transportation.

WV Legislature

§17-26-2. State road general obligation bonds; amount; when may issue.

Bonds of the State of West Virginia, under authority of the "Safe Roads Amendment of 1996" of the par value not to exceed in the aggregate $550,000,000, are hereby authorized to be issued and sold for matching available federal funds for highway construction and for general highway construction or improvements in each of the fifty-five counties in this state, as provided for by the Constitution and the provisions of this article. During the fiscal year ending June 30, 1998, the amount of $110,000,000 in bonds may be sold. That same amount is authorized to be sold in each of the next four following fiscal years: Provided, That any amount not sold in a fiscal year may be carried forward and sold in the next fiscal year.

These bonds may be issued by the Governor upon resolution passed by the Legislature authorizing the same. The bonds shall bear the date and mature at the time, bear interest at the rate, be in amounts, be in denominations, be in the registered form, carry registration privileges, be due and payable at the time and place and in amounts, and subject to terms of redemption as the resolution may allow.

Both the principal and interest of the bonds shall be payable in the lawful money of the United States of America and the bonds and the interest thereon shall be exempt from taxation by the State of West Virginia, or by any county, district or municipality thereof, which fact shall appear on the face of the bonds as part of the contract with the holder of the bond.

The bonds shall be executed on behalf of the State of West Virginia, by the manual or facsimile signature of the State Treasurer, under the great seal of the state or a facsimile of the great seal, and countersigned by the manual or facsimile signature of the Auditor of the state.

WV Legislature

§17-26-3. Creation of debt service fund; disbursements to pay debt service on state road general obligation bonds.

There is hereby created a special account in the State Treasury, which shall be designated and known as the "Safe Road Bond Debt Service Fund", into which shall be deposited any and all amounts appropriated by the Legislature from the state road fund or funds from any source whatsoever which is made liable by law for the purpose of paying the interest on the bonds or paying off and retiring bonds issued pursuant to this article.

WV Legislature

§17-26-4. Safe road bond debt service fund; sources used to pay bonds and interest; investment of remainder.

All funds deposited to the credit of the safe road bond debt service fund shall be kept by the treasurer of the state in a separate account and all money belonging to the fund shall be deposited in the treasury to the credit of the fund.

The fund shall be applied by the treasurer of the state for payments on the principal and interest on bonds sold pursuant to this article as it becomes due and payable. The remainder of the fund, if any, shall be invested by the state Board of Investments in the manner authorized under article six, chapter twelve of this code.

WV Legislature

§17-26-5. Covenants of state.

The state of West Virginia covenants and agrees with the holders of the bonds issued pursuant hereto as follows: (1) That the bonds shall constitute a direct and general obligation of the State of West Virginia; (2) that the full faith and credit of the state is hereby pledged to secure the payment of the principal and interest of the bonds; (3) that an annual state tax shall be collected in an amount sufficient to pay, as it may accrue, the interest on the bonds and the principal thereof; and (4) that the tax shall be levied in any year only to the extent that the moneys transferred to the safe road bond debt service fund as provided in sections three and four, of this article which are irrevocably set aside and appropriated for and applied to the payment of the interest on and principal of any bond becoming due and payable in such year are insufficient therefor.

WV Legislature

§17-26-6. Sale by Governor; minimum price; certification of annual debt service amount.

The Governor shall sell the bonds herein authorized at a time or times as provided by a resolution enacted by the Legislature. The Governor, in his or her discretion, may, by executive message, request that a resolution be proposed for the issuance of bonds pursuant to this article. The Governor shall determine the manner by which bonds will be sold. On or before June 1 in each fiscal year the commissioner shall certify to the treasurer and secretary of the Department of Tax and Revenue the principal and interest requirement for the following fiscal year on any bonds issued pursuant to this article.

WV Legislature

§17-26-7. Conflicts of interest.

No part of the proceeds from the sale of bonds under this article may inure to the benefit of or be distributable to the officers, employees of the state except to pay reasonable compensation for services rendered to the state. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or confined in jail not more than one year, or both fined and imprisoned.

WV Legislature

§17-26-8. State road bonds lawful investments.

All state road bonds issued pursuant to this article shall be lawful investments for banking institutions, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations, trust companies, insurance companies, including domestic for life and domestic not for life insurance companies.

WV Legislature

§17-26-9. Refunding bonds.

Any state road general obligation bonds which are outstanding may at any time be refunded by the issuance of refunding bonds in an amount deemed necessary to refund the principal of the bonds to be refunded, together with any unpaid interest thereon; to accomplish the purpose of the amendment and to pay any premiums and commissions necessary to be paid in connection therewith. Any refunding may be effected whether the state road general obligation bonds to be refunded shall have then matured or shall thereafter mature. Any refunding bonds issued pursuant to this article shall be payable from the safe road bond debt service fund.

WV Legislature

§17-26-10. Termination or dissolution.

Upon the termination or dissolution of the West Virginia Division of Highways, all rights and properties of the West Virginia Division of Highways with respect to the safe road bond debt service fund shall pass to and be vested in the state, subject to the rights of bondholders, lienholders and other creditors.

WV Legislature

§17-26-11. Treasurer to determine financial advisor.

The treasurer, in his or her discretion, may select a competent person or firm to serve as financial advisor for the issuance and sale of general obligation bonds issued pursuant to this article.

WV Legislature

§17-26-12. Governor to determine bond counsel.

The Governor shall select a competent person or firm to serve as bond counsel who shall be responsible for the issuance of a final approving opinion regarding the legality of the sale of general obligation bonds issued pursuant to this article. Notwithstanding the provisions of article three, chapter five of this code, bond counsel may represent the state in court, render advice and provide other legal services as may be requested by the Governor, the secretary or the commissioner regarding any bond issuance pursuant to this article and all other matters relating to the bond issue. The Governor may also, in his or her discretion, select a person or firm to serve as underwriter for any issuance pursuant to this article.

WV Legislature

§17-26-13. Approval and payment of all necessary expenses.

All necessary expenses, including legal expenses, incurred in the issuance of any general obligation bonds pursuant to this article shall be paid out of the safe road bond debt service fund. The amount of any expenses incurred shall be certified to the commissioner of highways.

WV Legislature

§17-26-14. Dedication of tax.

(a) There shall be dedicated an annual amount from the collections of the tax imposed pursuant to section three, article fourteen, chapter eleven of this code, sufficient to pay the principal and interest of any state road bonds issued pursuant to this article.

(b) Beginning in the month of July, in the fiscal year in which bonds are first issued, and monthly thereafter, there shall be deposited into the safe road bond debt service fund an amount equal to one tenth of the projected annual principal, interest requirements, as certified by the commissioner, on all bonds issued pursuant to this article, of the tax collected pursuant to article fourteen, chapter eleven of this code.

WV Legislature