WEST VIRGINIA CODE CHAPTER 17 ARTICLE 26A

WV Legislature

§17-26A-1. Definitions.

For purposes of this article:

(1) “Commissioner” means the West Virginia Commissioner of Highways continued pursuant to section one, article two-a of this chapter;

(2) “Amendment” means the amendment to the Constitution of this state entitled Roads to Prosperity Amendment of 2017 as approved by referendum in October, 2017;

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

(4) “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

(5) “Secretary” means the Secretary of the West Virginia Department of Transportation.

WV Legislature

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

(a) Bonds of the State of West Virginia, under authority of the Roads to Prosperity Amendment of 2017 of the principal amount not to exceed in the aggregate $1.6 billion are authorized to be issued and sold for matching available federal funds for highway and bridge construction in this state and for general highway and secondary roads and bridge 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 beginning July 1, 2017, the principal amount of $800 million in bonds may be sold. During the fiscal year beginning July 1, 2018, the principal amount of $400 million in bonds may be sold. During the fiscal year beginning July 1, 2019, the principal amount of $200 million in bonds may be sold. During the fiscal year beginning July 1, 2020, the principal amount of $200 million in bonds may be sold. Any amount not sold in a fiscal year may be carried forward and issued in any subsequent year before July 1, 2021.

(b) 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 rates, be in amounts, be in denominations, be in the registered form, carry registration privileges, be due and payable at the times and place and in amounts, and be subject to terms of redemption as the resolution may allow.

(c) 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.

(d) The bonds shall be executed on behalf of the State of West Virginia, by the manual or facsimile signature of the Governor, under the Great Seal of the State or a facsimile of the Great Seal, and countersigned by the manual or facsimile signature of the Secretary of State.

WV Legislature

§17-26A-3. Creation of debt service fund 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 Roads to Prosperity 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

§17-26A-4. Roads to Prosperity Bond Debt Service Fund; sources used to pay bonds, interest and cost of issuance; investment of remainder.

(a) All funds deposited to the credit of the Roads to Prosperity Bond Debt Service Fund shall be kept by the State Treasurer in a separate account, and all money belonging to the fund shall be deposited in the Treasury to the credit of the fund.

(b) The fund shall be applied by the State Treasurer for payments on the principal and interest on bonds sold pursuant to this article as it becomes due and payable and any costs related to the issuance thereof. The remainder of the fund, if any, shall be invested by the West Virginia Board of Treasury Investments in the manner authorized under article six-c, chapter twelve of this code.

WV Legislature

§17-26A-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 are a direct and general obligation of the State of West Virginia; (2) that the full faith and credit of the state is 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 Roads to Prosperity 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

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

The Governor shall sell the bonds herein authorized at a time or times as provided by resolutions 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 at an aggregate price equal to, above or below par value. On or before June 1 in the fiscal year in which the first bonds are issued pursuant to this article and June 1 of each fiscal year, the commissioner shall certify to the Treasurer and Secretary of the Department of Revenue the principal and interest requirement for the following fiscal year on any bonds issued pursuant to this article.

WV Legislature

§17-26A-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 or employees of the state except to pay reasonable compensation for services rendered to the state. Any person violating the provisions of this section is 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 confined.

WV Legislature

§17-26A-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, and insurance companies, including domestic for life and domestic not for life insurance companies.

WV Legislature

§17-26A-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 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 Roads to Prosperity Bond Debt Service Fund.

WV Legislature

§17-26A-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 Roads to Prosperity 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

§17-26A-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

§17-26A-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

§17-26A-13. Approval of 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 Roads to Prosperity Bond Debt Service Fund or the State Road Fund if so appropriated by the Legislature. The amount of any expenses incurred shall be certified to the Treasurer by the Commissioner of Highways.

WV Legislature

§17-26A-14. Dedication of taxes and fees.

(a) There shall be dedicated an annual amount from the collections of the taxes and fees imposed pursuant to chapters eleven, seventeen-a, seventeen-b, seventeen-c and seventeen-d of this code, that are required to be deposited to the credit of the State Road Fund sufficient to pay the principal and interest of any state road bonds issued pursuant to this article.

(b) Beginning in July in the fiscal year in which the first interest payment on the bonds issued pursuant to this article is due, and monthly thereafter for the first ten months of each fiscal year, there shall be deposited into the Roads to Prosperity Bond Debt Service Fund an amount equal to one tenth of the projected annual principal and interest requirements, as certified by the commissioner, on all bonds issued pursuant to this article, of the tax collected pursuant to chapter eleven of this code: Provided, That each tenth payment shall be reduced by any interest earnings accrued to the Roads to Prosperity Bond Debt Service Fund: Provided, however, That if bonds issued after the annual certification have a first interest or principal payment coming due in the then current or next fiscal year, the monthly deposits shall be made in such a manner to provide for the payment of the interest and/or principal coming due.

WV Legislature