WEST VIRGINIA CODE: §17-28-6

§17-28-6. Issuance of transportation project revenue bonds by county.

(a) The county commission, in its discretion, may use the moneys in such special transportation fund established under section five of this article to finance the costs of transportation projects on a cash basis. Every county commission is empowered and authorized to issue, in the manner prescribed by this section, special revenue bonds secured by user fees authorized by section five of this article to finance or refinance all or part of a transportation project and pledge all or any part of the user fees for the payment of the principal of and interest on such bonds and the reserves therefor. Bonds issued for any of the purposes stated in this section shall contain in the title or subtitle thereto the word "transportation", in order to identify the same.

(b) The transportation revenue bonds may be authorized and issued by the county commission to finance or refinance, in whole or in part, public transportation projects in an aggregate principal amount not exceeding the amount which the county commission determines can be paid as to both principal and interest and reasonable margins for a reserve therefor from user fee revenues. A county commission issuing transportation revenue bonds shall establish a fund to deposit user fee revenues. The county commission shall thereafter deposit all revenues pledged to the payment of principal and interest of transportation revenue bonds into the fund.

(c) The issuance of transportation revenue bonds may be authorized by an order of the county commission. The transportation revenue bonds shall: (1) Bear a date or dates; (2) mature at a time or times not exceeding forty years from their respective dates; (3) be in a denomination not more than a maximum denomination fixed by the county commission; (4) be in a registered form with exchangeability and interchangeability privileges; (5) be payable in a medium of payment and at a place or places within or without the state; (6) be subject to such terms and prices for redemption, if any, as approved by the county commission; (7) bear a rate of interest that is not more than a maximum rate fixed by the county commission; and (8) may have such other terms and provisions as determined by the county commission. The transportation revenue bonds shall be signed by the president of the county commission under the seal of the county commission, attested by the clerk of the county commission. Transportation revenue bonds may be sold in a manner as the county commission determines is for the best interests of the county.

(d) The county commission may enter into: (1) Trust agreements with banks or trust companies within or without the state and in trust agreements or orders authorizing the issuance of bonds; (2) valid and legally binding covenants with the holders of the transportation revenue bonds as to the custody, safeguarding and disposition of the proceeds of the transportation revenue bonds, the moneys in the user fee revenue fund, sinking funds, reserve funds or any other moneys or funds; as to the rank and priority, if any, or different issues of transportation revenue bonds by the county commission under the

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provisions of this section; (3) agreements as to such provisions as payment, term, security, default and remedy provisions as the county commission shall consider necessary or desirable; and (4) agreements as to any other matters or provisions which are considered necessary and advisable by the county commission in the best interests of the county and to enhance the marketability of such transportation revenue bonds.

(e) The transportation revenue bonds are negotiable instruments under the Uniform Commercial Code of this state and are not obligations or debts of the state or of the county issuing the bonds and the credit or taxing power of the state or county may not be pledged therefor, but the transportation revenue bonds may be payable only from the revenue pledged therefor as provided in this article.

(f) A holder of transportation revenue bonds has a lien against the user fee revenues and the user fee revenue fund for payment of the transportation revenue bond and the interest thereon and may bring suit to enforce the lien.

(g) A county commission may issue and secure additional bonds payable out of the user fee revenues and the user fee revenue fund which bonds may rank on a parity with, or be subordinate or superior to, other bonds issued by the county commission and payable from the user revenue fee fund.

(h) For the purposes of this section, a county commission is authorized to sue and be sued; make contracts and guarantees; incur liabilities; borrow or lend money for any time period considered advisable by the county commission; sell, mortgage, lease, exchange, transfer or otherwise dispose of its property; or pledge its property as collateral or security for any time period considered advisable by the commission. All sales, leases or other disposition of real property acquired with state road funds or federal funds, or of real property dedicated to the state road system, must be done in accordance with applicable federal and state law and may be done only with the approval of the commissioner. A county commission is also authorized to create trusts as will expedite the efficient management of transportation projects and other assets owned or controlled by the county commission. The trustee, whether individual or corporate, in any trust has a fiduciary relationship with the county commission and may be removed by the county commission for good cause shown or for a breach of the fiduciary relationship with the county commission. Nothing in this article effects a waiver of the sovereign, constitutional or governmental immunity of the state or its agencies.

(i) The powers conferred by this article are in addition and supplemental to any other powers conferred upon county commissions by the Legislature relating to streets, road maintenance or to construct and maintain transportation facilities.

(j) After the issuance of any transportation revenue bonds, the user fee pledged to the payment thereof may not be reduced as long as any of the bonds are outstanding and unpaid except under such terms, provisions and conditions as shall be contained in the order, trust, agreement or other proceedings under which the transportation revenue bonds were issued.

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