WEST VIRGINIA CODE CHAPTER 18 ARTICLE 11B

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§18-11B-1. Board of Governors [board of regents] of West Virginia University authorized to issue revenue bonds for certain capital improvements.

The board of Governors of West Virginia University shall have authority, as provided in this article, to issue revenue bonds of the state, not to exceed $20 million in principal amount thereof, to refund bonds issued and outstanding under and pursuant to the provisions of article eleven-a of this chapter and this article and to finance the cost of providing new facilities, buildings and structures for West Virginia University including, but not limited to, buildings and structures suitable for use as an academic building, library, laboratory, research facility, maintenance or storage or utility facility and other facilities related thereto or essential or convenient for the instruction of students or the conducting of research or the operation of West Virginia University as an institution for higher education, and also including athletic facilities and stadia as well as parking and other facilities, buildings or structures essential or convenient for the orderly conduct of West Virginia University as an institution for higher education, together with, in each case, land for current or future use in connection therewith and equipment and machinery and other similar items essential or convenient for the operation of a particular facility, building or structure in the manner for which its use is intended but not including such items as books, fuel, supplies or other items which are customarily deemed to result in a current operating charge. The principal of and interest on such bonds shall be payable solely from the special nonrevolving fund herein provided for such payment. The cost of any such facility, building or structure shall include the cost of acquisition of land, the construction and equipment of any such facility, building or structure and the provision for roads, utilities and other services necessary, appurtenant or incidental to such facilities, buildings or structures, and shall also include all other charges or expenses necessary, appurtenant or incidental to the construction, financing and placing in operation of any such facility, building or structure.

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§18-11B-2. Special university capital improvements fund continued in State Treasury; collections to be paid into special fund; authority of board of Governors [board of regents] to pledge such collections as security for revenue bonds.

The special nonrevolving university capital improvements fund heretofore created in the State Treasury pursuant to the provisions of article eleven-a of this chapter shall be continued and shall exist so long as any bonds issued pursuant to said article eleven-a or this article remain outstanding and unpaid. Subject only to the prior lien thereon of outstanding bonds heretofore issued pursuant to the provisions of article eleven-a of this chapter, on and after July 1, 1966, there shall be paid into such special university capital improvements fund all fees collected under the provisions of section one, article one-a, chapter twenty-five of this code, from students at the university other than students in the schools of medicine, medical technology, dentistry, dental technology, nursing and pharmacy, except such fees as are now required by that section to be paid into other special funds: Provided, That any future allocation of all or any of such fees to other special funds shall, so long as any bonds issued pursuant to said article eleven-a or this article remain outstanding and unpaid, be expressly subordinate, junior and inferior to the requirements of and pledges made pursuant to this section.

The board of Governors shall have authority to pledge all or such part of the revenue paid into the special university capital improvements fund as may be needed to meet the requirements of the sinking fund established in connection with any revenue bond issue authorized by this article, including a reserve fund for the payment of the principal of and interest on such revenue bond issue when other moneys in the sinking fund are insufficient therefor and including such additional margin of safety as may be provided in the resolution authorizing any issue of such bonds and in any trust agreement made in connection therewith, and may provide in the resolution authorizing any issue of such bonds, and in any trust agreement made in connection therewith, for such priorities on the revenues paid into the special fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this article.

Any balance remaining in the special university capital improvements fund after the board has issued the maximum of $20 million worth of bonds authorized by this article, and after the requirements of all sinking funds and reserve funds established in connection with the bonds issued pursuant to this article have been satisfied, may and shall be used solely for the redemption of any of the outstanding bonds issued hereunder which by their terms are then redeemable, or for the purchase of such bonds at the market price, but at not exceeding the price, if any, at which such bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. Whenever all outstanding bonds issued hereunder shall have been paid, the special university capital improvements fund shall cease to exist and any balance then remaining in such fund shall be transferred to the General Revenue Fund of the state. Thereafter all fees formerly paid into such special fund shall be paid into the General Revenue Fund of the state.

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§18-11B-3. Board of Governors [board of regents] to fix fees.

The board of Governors shall fix, establish, maintain and collect the fees provided for in section one, article one-a, chapter twenty-five of this code, from students at the university other than students in the schools of medicine, medical technology, dentistry, dental technology, nursing and pharmacy, in amounts at least sufficient, at all times, after depositing in the other special funds such fees as are now required to be deposited therein pursuant to section one, article one-a, chapter twenty-five of this code, to provide revenues for deposit in the special university capital improvements fund which are adequate to pay the principal of and interest on the outstanding bonds heretofore issued pursuant to article eleven-a of this chapter as the same mature and become due and to make all reserve and other payments required by the proceedings which authorized such outstanding bonds, to pay the principal of and interest on any outstanding bonds issued pursuant to this article as the same mature and become due and to provide any margin of safety and reserve or other payments required by the resolution authorizing any issue of bonds pursuant to this article and any trust agreement made in connection therewith, and to make all other payments required by this article or any such proceedings, resolutions or trust agreements.

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§18-11B-4. Issuance of revenue bonds.

The issuance of revenue bonds under the provisions of this article shall be authorized by a resolution of the board of regents, which shall recite an estimate by the board of the cost of the proposed facilities, buildings or structures; and shall provide for the issuance of bonds in an amount sufficient, when sold as hereinafter provided, to provide moneys sufficient to pay such cost, less the amount of any other funds available for the construction of the facilities, buildings or structures from any appropriation, grant or gift therefor. Such resolution shall prescribe the rights and duties of the bondholders and the board, and for such purpose may prescribe the form of the trust agreement hereinafter referred to. The bonds shall be of such series, bear such date or dates, mature at such time or times not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding seven per centum per annum, payable semiannually; be in such denominations; be in such form, either coupon or fully registered without coupons, carrying such registration, exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places; be subject to such terms of redemption at such prices not exceeding one hundred five percent of the principal amount thereof, and be entitled to such priorities on the revenues paid into the special university capital improvements fund as may be provided in the resolution authorizing the issuance of the bonds or in any trust agreement made in connection therewith. The bonds shall be signed by the Governor, and by the president of the board of regents, under the great seal of the state, attested by the Secretary of State, and the coupons attached thereto shall bear the facsimile signature of the president of the board. In case any of the officers whose signatures appear on the bonds or coupons cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if such officers had remained in office until such delivery.

Such bonds shall be sold in such manner as the board may determine to be for the best interest of the state, taking into consideration the financial responsibility of the purchaser, the terms and conditions of the purchase, and especially the availability of the proceeds of the bonds when required for payment of the cost of such facilities, buildings or structures, such sale to be made at a price not lower than a price which, when computed upon standard tables of bond values, will show a net return of not more than eight percent per annum to the purchaser upon the amount paid therefor. The proceeds of such bonds shall be used solely for the payment of the cost of such facilities, buildings or structures, and shall be deposited in the State Treasury in a special fund and checked out as provided by law for the disbursement of other state funds. If the proceeds of such bonds, by error in calculation or otherwise, shall be less than the cost of such facilities, buildings or structures, additional bonds may in like manner be issued to provide the amount of the deficiency; and unless otherwise provided for in the resolution or trust agreement hereinafter mentioned, shall be deemed to be of the same issue, and shall be entitled to payment from the same fund, without preference or priority, as the bonds before issued for such facilities, buildings or structures. If the proceeds of bonds issued for such facilities, buildings or structures shall exceed the cost thereof, the surplus shall be paid into the sinking fund to be established for

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payment of the principal and interest of such bonds as hereinafter provided. Prior to the preparation of definitive bonds, the board may, under like restrictions, issue temporary bonds with or without coupons, exchangeable for definitive bonds upon their issuance. The term "cost," as used in this section, shall be deemed to include all of the items contemplated by the use of this term in section one of this article.

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§18-11B-5. Issuance of revenue refunding bonds.

The issuance of revenue refunding bonds under the provisions of this article shall be authorized by resolution of the board of Governors and shall otherwise be subject to the limitations, conditions and provisions of section four of this article. Such revenue refunding bonds may be issued in an amount sufficient to pay (1) the principal of any outstanding bonds heretofore issued pursuant to the provisions of article eleven-a of this chapter or this article (hereinafter referred to as "outstanding bonds"); (2) the redemption premium, if any, on such outstanding bonds on the prior redemption thereof; (3) the interest due and payable on such outstanding bonds to and including the first date upon which said outstanding bonds are callable prior to maturity, not exceeding, however, ten years from the date of issuance of such revenue refunding bonds, or the dates upon which the principal of said outstanding bonds matures before such first date on which the same are callable prior to maturity, including any interest theretofore accrued and unpaid; and (4) all expenses of the issuance and sale of said revenue refunding bonds, including all necessary financial and legal expenses, and also including the creation of initial debt service reserve funds. Any moneys in the sinking or reserve funds or other funds for the outstanding bonds may be used for the purposes stated in (1), (2), (3) and (4) above or may be deposited in a sinking fund or reserve fund or other funds for the issue of bonds which have been issued wholly or in part for the purpose of such refunding. Such amount of the proceeds of the revenue refunding bonds as shall be sufficient for the payment of the principal, interest and redemption premiums, if any, on such outstanding bonds which will not be due and payable immediately shall be deposited in trust, for the sole purpose of making such payments, with the treasurer of the State of West Virginia. Any of the moneys so deposited in trust may, prior to the date on which such moneys will be needed for the payment of principal, interest and redemption premiums, if any, on such outstanding bonds, be invested and reinvested in direct obligations of the United States of America.

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§18-11B-6. Bonds may be issued for combined purposes.

The board of Governors may authorize by one resolution a single issue of bonds for the combined purposes of refunding the outstanding bonds as herein authorized and financing one or more of the facilities, buildings and structures herein authorized.

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§18-11B-7. Bonds shall be negotiable instruments.

The revenue bonds, revenue refunding bonds and bonds issued for combined purposes under the provisions of this article shall, independently of the requirements of any other provision of law and solely by virtue of the provisions of this section, be and have all the qualities and incidents of negotiable instruments.

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§18-11B-8. Trust agreements for holders of bonds.

The board may enter into an agreement or agreements with any trust company, or with any bank having the powers of a trust company, either within or outside the state, as trustee for the holders of bonds issued hereunder, setting forth therein such duties of the board in respect to the payment of the bonds, the fixing, establishing and collecting of the fees hereinbefore referred to, the acquisition, construction, improvement, maintenance, operation, repair and insurance of authorized facilities, buildings or structures, the conservation and application of all moneys, the security for moneys on hand or on deposit, and the rights and remedies of the trustee and the holders of the bonds, as may be agreed upon with the original purchasers of such bonds; and including therein provisions restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds and debentures of municipal corporations, protecting and enforcing the rights and remedies of the trustee and the bondholders, and providing for approval by the original purchasers of the bonds of the appointment of consulting engineers and of the security given by those who contract to construct such facilities, buildings or structures and for approval by the consulting engineers of all contracts for construction. Any such agreement entered into by the board shall be binding in all respects on such board and its successors from time to time in accordance with its terms; and all the provisions thereof shall be enforceable by appropriate proceedings at law or in equity, or otherwise.

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§18-11B-9. Sinking fund for payment of bonds.

From the special university capital improvements fund the board shall, subject only to the prior lien thereon of the outstanding bonds heretofore issued pursuant to the provisions of article eleven-a of this chapter, make periodic payments to the state sinking fund commission in an amount sufficient to meet the requirements of any issue of bonds sold under the provisions of this article, as specified in the resolution of the board authorizing the issue thereof and in any trust agreement entered into in connection therewith. The payments so made shall be placed by the commission in a special sinking fund which is hereby pledged to and charged with the payment of the principal of the bonds of such issue and the interest thereon, and to the redemption or repurchase of such bonds, such sinking fund to be a fund for all bonds of such issue without distinction or priority of one over another, except as may be provided in the resolution authorizing such issue of bonds. The moneys in the special sinking fund, less such reserve for payment of principal and interest as may be required by the resolution of the board authorizing the issue and any trust agreement made in connection therewith, may be used for the redemption of any of the outstanding bonds payable from such fund which by their terms are then redeemable, or for the purchase of bonds at the market price, but at not exceeding the price, if any, at which such bonds shall in the same year be redeemable; and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued.

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§18-11B-10. Credit of state not pledged.

No provisions of this article shall be construed to authorize the board at any time or in any manner to pledge the credit or taxing power of the state, nor shall any of the obligations or debts created by the board under the authority herein granted be deemed to be obligations of the state.

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§18-11B-11. Bonds exempt from taxation.

All bonds issued by the board under the provisions of this article, and the interest thereon, shall be exempt from taxation by the State of West Virginia, or by any county, school district, municipality or other political subdivision thereof.

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§18-11B-12. Conflicting laws repealed.

The powers conferred by this article shall be in addition and supplemental to the existing powers of the board of Governors. The provisions of any other law or laws conflicting with the provisions of this article shall be and the same are hereby superseded to the extent of any such conflict.

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