WEST VIRGINIA CODE CHAPTER 31 ARTICLE 15B

WV Legislature

§31-15B-1. Definitions.

For purposes of this article and article fifteen-a of this chapter:

(a) "Council" means the West Virginia infrastructure and jobs development council created in section three, article fifteen-a of this chapter;

(b) "Infrastructure amendment" means the amendment to the Constitution of this state entitled "infrastructure amendment" as approved by referendum in November, 1994;

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

(d) "Water development authority" means the West Virginia water development authority established under article one, chapter twenty-two-c of this code, or any successor to all or any substantial part of its powers and duties.

WV Legislature

§31-15B-2. Infrastructure general obligation bonds; amount; when may issue.

Bonds of the State of West Virginia, under authority of the infrastructure improvement amendment of 1994, of the par value not to exceed in the aggregate $300 million, are hereby authorized to be issued and sold solely for the construction, extension, expansion, rehabilitation, repair and improvement of water supply and sewage treatment systems and for the acquisition, preparation, construction and improvement of sites for economic development as provided for by the Constitution and the provisions of this article.

These bonds may be issued by the Governor upon resolution by the infrastructure council and certification to the Governor. The bonds shall bear such date and mature at such time, bear interest at such rate not to exceed eight percent per annum, be in such amounts, be in such denominations, be in such registered form, carry such registration privileges, be due and payable at such time and place and in such amounts, and subject to such terms of redemption as such resolution may provide: Provided, That in no event may the amount of bonds outstanding exceed an amount for which $24 million would not be sufficient to provide annual service on the total amount of debt outstanding.

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 treasurer thereof, under the great seal of the state or a facsimile thereof, and countersigned by the manual or facsimile signature of the Auditor of the state.

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§31-15B-3. Creation of debt service fund; disbursements to pay debt service on infrastructure general obligation bonds.

There is hereby created a special account in the State Treasury, which shall be designated and known as the "West Virginia Infrastructure General Obligation Debt Service Fund", into which shall be deposited amounts pursuant to the provisions of section sixteen, article fifteen-a of this chapter, as well as any amounts appropriated by the Legislature.

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§31-15B-4. Infrastructure general obligation debt service fund; sources used to pay bonds and interest; investment of remainder.

All money from any and all appropriations made by the state, all moneys transferred pursuant to the provisions of section sixteen, article fifteen-a of this chapter and all moneys from any other source whatsoever which is made liable by law for the payment of the principal of such bonds or the interest thereon shall be deposited into the infrastructure general obligation debt service fund. Moneys shall be kept by the treasurer in a separate account, under the designation aforesaid, and all moneys belonging to the infrastructure general obligation debt service fund shall be deposited in the State Treasury to the credit thereof.

This fund shall be applied by the treasurer to the payment of the principal and interest on such bonds as shall become due as herein provided. Any funds remaining after certification of the amount necessary for the payment of principal and interest as provided by section sixteen, article fifteen-a and expenses authorized pursuant to section thirteen of this article shall be deposited to the credit of the infrastructure fund.

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§31-15B-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 such 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 such bonds; (3) that an annual state tax shall be collected in an amount sufficient to pay as it may accrue the interest on such bonds and the principal thereof; and (4) that such tax shall be levied in any year only to the extent that the moneys transferred to the infrastructure general obligation debt service fund as provided in section sixteen, article fifteen-a of this chapter 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.

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§31-15B-6. Sale by Governor; minimum price.

The Governor shall sell the bonds herein authorized at such time or times as the council, by resolution, may determine necessary to provide funds for purposes set forth in this article and article fifteen-a of this chapter. Sales shall be at not less than par and accrued interest.

The bonds must be offered for competitive bids from recognized financial investment institutions before the bonds may be sold: Provided, That the bid process is not subject to the provisions of article three-a, chapter five-a of this code. Any and all of the bids may be rejected. If the bonds are not sold pursuant to the competitive bid process, the bonds may, within sixty days after the date the bids are received, be sold at private sale: Provided, however, That no private sale shall be made at a price less than the highest bid received.

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§31-15B-7. Prohibition on funds inuring to the benefit of or being distributable to directors or officers; transactions between the council and West Virginia water development authority and directors or officers having certain interests in such transactions.

No part of the infrastructure fund shall inure to the benefit of or be distributable to the commissioners of the Public Service Commission, the council, or the West Virginia water development authority's directors or officers. The council may approve and the water development authority make loans and exercise other powers as previously specified in furtherance of their corporate purpose: Provided, That no loans shall be made, nor shall any property be purchased or leased from, or sold, leased or otherwise disposed of, to any commissioner, director or officer of the council, the Public Service Commission or the West Virginia water development authority.

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§31-15B-8. Infrastructure bonds lawful investments.

All infrastructure 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

§31-15B-9. Refunding bonds.

Any infrastructure 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 this article and article fifteen-a of this chapter; and to pay any premiums and commissions necessary to be paid in connection therewith. Any refunding may be effected whether the infrastructure 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 infrastructure general obligation bond debt service fund, and shall be subject to the provisions contained in section eleven, article fifteen-a of this chapter and shall be secured in accordance with the provisions of this article.

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§31-15B-10. Termination or dissolution.

Upon the termination or dissolution of the West Virginia water development authority, all rights and properties of the West Virginia water development authority with respect to the infrastructure fund shall pass to and be vested in the state, subject to the rights of bondholders, lienholders and other creditors.

WV Legislature

§31-15B-11. Treasurer to determine financial advisor.

The treasurer shall 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.

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§31-15B-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 council in court, render advice to the council and provide other legal services as may be requested by the council regarding any bond issuance pursuant to this article and all other matter relating to the bond issue.

WV Legislature

§31-15B-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 infrastructure general obligation debt service fund. The amount of any expenses incurred shall be certified to the water development authority.

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