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ENROLLED BILL
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 338

(By Mr. Peters)

Passed February 28 1934

In Effect from Passage

Originated in the House of Delegates Takes effect Passage

Clerk of House of Delegates.

CORRECTLY ENROLLED

Clerk.

H. B. Abbott
Chairman Senate Committee.

James P. Smith
Chairman House Committee.

ENROLLED BILL

(H. B. No. 338)

[Passed February 28, 1934; in effect from passage.]

AN ACT to authorize the board of education of Mercer county, West Virginia, to construct, equip, maintain and operate a high school building for colored persons in the city of Bluefield, in and for said county, at a total cost not to exceed one hundred thousand dollars, and to borrow funds from the public works administration or other governmental agency authorized to make loans, for the purpose of constructing and equipping said high school, together with the right to purchase additional land within the discretion of said board; to issue bonds in payment of same and to pledge a sufficient amount of revenue within the constitutional limitation, and within the limitations as provided by general law, to pay the interest on and principal of said bonds within a period not to exceed thirty years.

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Chairman House Committee.

James A. Hays
Chairman Senate Committee.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Mercer county is hereby
2 authorized to construct, equip, maintain and operate a high
3 school building for colored persons in the city of Bluefield, in
4 and for said county, at a total cost of not to exceed one hundred
5 thousand dollars. Said board is authorized to borrow funds
6 from the public works administration or other governmental
7 agency authorized to make loans, for the purpose of construct-
8 ing and equipping said school, and shall also have the right to
9 purchase additional or other land on which to build same,
10 within the discretion of the board. Said board is authorized
11 to issue bonds for the purpose of paying the cost of such land,
12 building and equipment, and to pledge a sufficient amount of
13 revenue within the constitutional limitations, and within the
14 limitations as provided by general law, to pay the interest on
15 and principal of said bonds within a period not to exceed
16 thirty years. Said board is further authorized and empowered
17 to do and perform any and all acts and make all contracts
18 necessary to effectuate the general purposes of this act, includ-
19 ing the acquisition by original grant, purchase or other lawful
20 means of all necessary permits, easements and other rights in

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A. Byrnes

Chairman House Committee.

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21 real estate, and title to and possession thereof, and/or to make
22 such purchase with the money borrowed, as provided in this
23 section. Said board of education shall have authority to make
24 such contracts, agreements and covenants between it and the
25 public works administration or other governmental agency, for
26 the loan of said funds and securing payment thereof as they
27 may be able to effectuate, subject only to this limitation, that
28 the bonds issued or given as security thereof shall be payable
29 solely out of the levies now provided for by general law, to be
30 levied by said county board in and for Mercer county, and to
31 construct, equip, maintain and operate such high school, and
32 to make and enter into such contracts, and to do and perform
33 such acts as may be necessary to the construction, operation and
34 maintenance of such high school, subject to such burdens, re-
35 strictions and encumbrances as it may be necessary to incur and
36 bear in securing such funds for construction.

37 Bonds issued hereunder shall be exempt from taxation by the
38 state of West Virginia or any county, district or municipality
39 thereof.

Sec. 2. There shall be and there is hereby created a statutory
2 mortgage lien upon the high school and real estate so acquired

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3 or constructed from the proceeds of bonds authorized to be
4 issued under section one, of this act, which shall exist in favor
5 of the holder of said bonds, and each of them, and to and in
6 favor of the holder of the coupons attached to said bonds, and
7 such high school shall remain subject to such statutory mortgage
8 lien until payment in full of the principal and interest of said
9 bonds. Any holder of bonds issued under the provisions of
10 this act, or of any coupons representing interest accrued there-
11 on, may, either at law or in equity, enforce the statutory
12 mortgage lien hereby conferred and may, by proper suit, com-
13 pel the performance of the duties of the officials of the said
14 board of education set forth in this act. If there be default in
15 the payment of the principal of and/or interest upon any of
16 said bonds, or other evidences of indebtedness, any court having
17 jurisdiction in any proper action may appoint a receiver to ad-
18 minister said high school on behalf of the said board of educa-
19 tion, with power to charge and collect rents or income sufficient
20 to provide for the payment of said bonds and interest thereon,
21 and for the payment of the operating expenses, and to apply
22 the income, rents or other revenue in conformity with this act
23 and the order providing for the issuance of said bonds.

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Sec. 3. Said board of education issuing bonds under the
2 provisions of this act shall thereafter, so long as any such bonds,
3 or other evidences of indebtedness, remain outstanding, operate
4 and maintain said school so as to provide revenues as will be
5 sufficient to pay all operating costs, provide a depreciation fund,
6 retire the bonds and pay the interest requirements thereon as
7 the same may become due. The amounts, as and when so set
8 apart by said county board of education, shall be remitted to
9 the state sinking fund commission at least thirty days previous
10 to the time interest or principal payments become due, to be
11 retained and paid out by said commission consistent with the
12 provisions of this act and the order pursuant to which such
13 bonds have been issued. The state sinking fund commission is
14 hereby authorized to act as fiscal agent for the administration
15 of such sinking fund under any order passed pursuant to the
16 provisions of this act and shall invest all sinking funds, as pro-
17 vided by general law. Bonds issued under the provisions of
18 this act are hereby declared to be and to have all the qualities
19 of negotiable instruments. Such bonds shall bear interest at
20 not more than six per cent per annum, payable semiannually,
21 and shall mature in not more than thirty years from their date

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22 and may be made redeemable at the option of the said board of
23 education at such price and under such terms and conditions
24 as said board of education may fix prior to the issuance of such
25 bonds. Bonds issued hereunder shall be payable at the office of
26 the state treasurer and some bank in the city of New York.

27 In case any of the officers whose signatures appear on the
28 bonds or coupons shall cease to be such officers before the de-
29 livery of such bonds, such signatures shall, nevertheless, be
30 valid and sufficient for all purposes the same as if they had re-
31 mained in office until such delivery. The board of education
32 shall fix the denominations, times and places of payment of
33 such bonds, the principal of and interest on which shall be pay-
34 able in such funds as are on the respective dates of payment
35 thereof legal tender for debts due the United States of America.
36 The proceeds of such bonds shall be used solely for the payment
37 of the cost of land, buildings and equipment thereon, and shall
38 be checked out by the county board under such restrictions as
39 are contained in the order providing for the issuance of said
40 bonds. If the proceeds of bonds issued for said high school shall
41 exceed the cost thereof, the surplus shall be paid into the fund
42 herein provided for the payment of principal and interest upon

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43 such bonds. Such fund may be used for the purchase of any of the
44 outstanding bonds payable from such fund at the market price,
45 but at not exceeding the price at which any of such bonds shall in
46 the same year be redeemable, and all bonds redeemed or pur-
47 chased shall forthwith be cancelled and shall not again be issued.

48 Prior to the preparation of definitive bonds, the board of ed-
49 ucation may, under like restrictions, issue temporary bonds, or
50 interim certificates, with or without coupons, exchangeable for
51 definitive bonds upon the issuance of the latter. Such bonds
52 may be issued without any other proceedings or the happening
53 of any other conditions or things than those proceedings, con-
54 ditions and things which are specified and required by this act.

Sec. 4. Nothing in this act contained shall be so construed
2 or interpreted as to authorize or permit the said county board
3 of education to incur a debt for and on behalf of said board or
4 Mercer county of any kind or nature as contemplated by the
5 provisions of the constitution of the state of West Virginia in
6 relation to debt.

Sec. 5. This act shall be deemed to provide an additional and
2 alternative method for the doing of the things authorized here-

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Chairman House Committee.

3 by and shall be regarded as supplementary and additional to
4 powers conferred by other laws.

Sec. 6. This act, being necessary for the health, welfare, con-
2 venience and education of the colored high school students of
3 the city of Bluefield in Mercer county, it should be liberally
4 construed to effectuate the purposes thereof.

Sec. 7. The provisions of this act are separable and not mat-
2 ters of mutual essential inducement, and it is the intention to
3 confer the whole or any part of the powers herein provided for,
4 and if any of the sections or provisions, or parts thereof, are
5 for any reason illegal, it is the intention that the remaining
6 sections and provisions, or parts thereof, shall remain in full
7 force and effect.

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A. B. Albert
Chairman Senate Committee,
acting

A. M. Hiner
Speaker of the House of Delegates.

Geo. H. Hall
Clerk of the House of Delegates.

P. B. Mainwaring
President of the Senate.

James L. Smith
Chairman House Committee.

Wm. D. Smith
Clerk of the Senate.

The within is.....

this.....day of....., 1934.

Filed in the office of the Secretary of State
of West Virginia.

MAR 8 1934

Wm. S. O'BRIEN,
Secretary of State

.....
Governor.