ENROLLED BILL
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 77

(By Mr. Thomas)

Passed December 9, 1933

In Effect from Passage
AN ACT to provide for the construction, maintenance, establishment and operation by any incorporated city or the county court of any county of highway toll bridges over and across navigable and non-navigable streams wholly within the state of West Virginia, and interstate highway toll bridges over and across navigable and non-navigable streams from the state of West Virginia to other adjoining states, including the Ohio river between its intersection with the Pennsylvania state line, and the mouth of the Big Sandy river; and also for the purchase and/or leasing of bridges privately owned and in existence, and operation thereof under leases; and to authorize and provide for the borrowing of money by means of bonds payable from revenues, or otherwise, and/or to ac-
cept grants from any governmental agency for the construction and/or purchase of such bridges.

Be it enacted by the Legislature of West Virginia:

Section 1. Any incorporated city, in which or adjoining which there is a portion of a navigable or non-navigable river or stream, either wholly within the state of West Virginia, or partly within the said state, and another state or states, or between the state of West Virginia and any other state, including the Ohio river in this state, from its intersection with the Pennsylvania state line, to the mouth of the Big Sandy river, is hereby authorized and empowered, in its corporate capacity, or through and by means of a bridge commission or other agency to be created or appointed by it, to construct, maintain and operate a highway toll bridge over and across such river or stream, from such a point within the corporate limits of such city, to such point on the opposite side of such river or stream, either within or without said city, as the said city, through its proper authorities, shall designate and select, for public use in travel, passage and transportation, over and across such river or stream: Provided, however, That no bridge shall be constructed, established or operated, over and...
19 across any navigable river, without compliance with the re-
20 quirements, conditions and provisions provided by the con-
21 gress of the United States and the laws of the United States,
22 nor without approval of the state road commission of this
23 state; and such city is authorized and empowered to borrow
24 money by means of bonds payable from revenues, or otherwise,
25 and/or to accept grants in part payment therefor from the
26 reconstruction finance corporation, public works administra-
27 tion, or any other governmental agency authorized to make
28 loans, a sum of money sufficient and necessary to pay all costs
29 of construction of such bridge, including approaches thereto,
30 the acquisition of all necessary rights-of-way and all engi-
31 neering, legal and other expenses necessary thereto or connected
32 therewith, including interest during construction, as a self-
33 liquidating enterprise or project, within the meaning of the fed-
34 eral laws authorizing loans by such reconstruction finance cor-
35 poration, or other governmental agency. And the county court
36 of any county, in which there is a portion of such river or
37 stream, or on which its county abuts or borders, is likewise
38 authorized and empowered to construct, maintain and oper-
39 ate a highway toll bridge, or bridges, over and across such
40 river or stream, and to borrow money, as aforesaid, for the
41 construction thereof, in like manner and to the same extent, as
42 such city, and to construct, maintain and operate such bridge,
43 subject to the same limitations as are hereby imposed in the
44 case of such cities.

Sec. 2. Any city or county so situated with reference to any
2 river or stream, over and across which there is now a highway
3 bridge, owned and operated by any bridge company or corpo-
4 ration, and situated partly within such city or county, is au-
5 thorized and empowered to purchase such bridge, with funds
6 obtained in the manner and from the source or sources men-
7 tioned by section one of this act, and to own and operate the
8 same, as a self-liquidating enterprise or project; and also to
9 obtain the possession, control and operation of such bridge,
10 under and by a lease or other contract, with the owner or
11 owners thereof, upon such terms and conditions, and for such
12 period of time, as may be agreed upon by such city or county
13 court, and the owner or owners of such bridge.

Sec. 3. Any city or county court authorized and empowered
2 by this act to construct or purchase and maintain and operate
3 such highway toll bridge, is further authorized and empowered
4 to do and perform any and all acts and make all contracts nec-
5 essary to effectuate the general purposes of this act, including
6 the acquisition, by original grant, purchase, condemnation or
7 other lawful means, of all necessary permits, franchises, licenses,
8 rights-of-way, easements and other rights in real estate, and title
9 to and possession thereof, and/or to make such purchase, with the
10 money borrowed as provided in section one of this act, or other-
11 wise. Such city or county court shall have authority to make
12 such contracts, agreements and covenants between it and said
13 reconstruction finance corporation, public works administra-
14 tion, or other governmental agency, for the loan of said funds
15 and securing payment thereof, as they may be able to effectuate,
16 subject only to this limitation, that the bonds or other evidences
17 of indebtedness issued or given as security therefor shall be
18 payable solely out of the revenues of such bridge; and to con-
19 struct, own, operate and maintain such bridge over and across
20 such river or stream, and to make and enter into such con-
21 tracts, and to do and perform such acts as may be necessary
22 to the construction, and/or purchase, ownership, operation and
23 maintenance of such bridge, subject to such burdens, restric-
24 tions and encumbrances as it may be necessary to incur and
bear, in securing such funds for construction, including the
creation by mortgage or deed of trust, on the said bridge, its
equipment, tolls and revenues and franchise, and also sub-
ject to the laws of this state and the United States, relating
to toll bridges over and across navigable streams, insofar as
they are applicable to such bridges. Bonds, or other evidences
of indebtedness, issued hereunder, shall be exempt from tax-
ation by the state of West Virginia or any county, district or
municipality thereof.

Sec. 4. In the event bonds, or other evidences of indebted-
ness, issued under the provisions of this act, are not secured
by a mortgage or deed of trust on the bridge acquired from
the sale of such bonds, or other evidences of indebtedness,
there shall be, and there is hereby, created a statutory mort-
gage lien upon the bridge and approaches so acquired or con-
structed from the proceeds of bonds, or other evidences of in-
debtedness, authorized to be issued, which shall exist in favor
of the holder of said bonds, and each of them, and to and in
favor of the holder of the coupons attached to said bonds, and
such bridge and approaches thereto shall remain subject to such
statutory mortgage lien until payment in full of the prin-
13 cipal and interest of said bonds, or other evidences of indebted-
14 ness. Any holder of bonds, or other evidences of indebtedness,
15 issued under the provisions of this act, or of any coupons re-
16 presenting interest accrued thereon, may, either at law or in
17 equity, enforce the statutory mortgage lien hereby conferred,
18 and may, by proper suit, compel the performance of the duties
19 of the officials of the issuing municipality or county court set
20 forth in this act. If there be default in the payment of the
21 principal of and/or interest upon any of said bonds, or other
22 evidences of indebtedness, any court having jurisdiction in any
23 proper action may appoint a receiver to administer said bridge
24 on behalf of the municipality or county court, with power to
25 charge and collect rates sufficient to provide for the payment of
26 said bonds, or other evidences of indebtedness, and interest
27 thereon, and for the payment of the operating expenses and to
28 apply the income and revenues in conformity with this act and
29 the order or ordinance providing for the issuance of said bonds,
30 or other evidences of indebtedness.

Sec. 5. Every municipality or county court issuing bonds,
2 or other evidences of indebtedness, under the provisions of this
3 act, shall thereafter, so long as any such bonds or other evi-
Eighteen bonds of indebtedness remain outstanding, operate and maintain its bridge so as to provide, charge, collect and account for revenues therefrom as will be sufficient to pay all operating costs, provide a depreciation fund, retire the bonds or other evidences of indebtedness, and pay the interest requirements as the same may become due. The ordinance or order pursuant to which any such bonds or other evidences of indebtedness are issued shall pledge the revenues derived from the bridge to the purposes aforesaid, and shall definitely fix and determine the amount of revenues which shall be necessary and set apart in a special fund for the bond requirements. The amounts, as and when so set apart into said special fund for the bond requirements, shall be remitted to the state sinking fund commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this act and the ordinance or order pursuant to which such bonds or other evidences of indebtedness have been issued.
Enrolled H. B. No. 77]

Speaker of the House of Delegates.

Clerk of the House of Delegates.

President of the Senate.

Clerk of the Senate.

The within is

day of

this, 1933.

Governor.

Filed in the office of the Secretary of State of West Virginia. DEC 19 1933

Wm. S. O'BRIEN, Secretary of State