

Rec. Mar. 11, 1933

389

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 389

(By Mr. Hines (Mr. Speaker))

Passed March 9, 1933

In Effect from Passage

Originated in the *House*..... Takes effect..... *from*..... Passage
John S. Hall..... *John S. Hall*.....
 Clerk..... Clerk of the House of Delegates.....

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James L. Smith..... *James L. Smith*.....
 Chairman House Committee..... Chairman Senate Committee.....

ENROLLED BILL

(H. B. No. 389)

[Passed March 9, 1933; in effect from passage.]

AN ACT to amend article one, chapter twenty-five of the code of

West Virginia, one thousand nine hundred thirty-one, relating to the West Virginia board of control, by the addition thereto of new sections to be numbered sections twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty two, thirty-three, thirty four and thirty-five, respectively, authorizing the West Virginia board of control to provide, construct, erect, improve, equip, maintain and operate dormitories, homes or refectories for students or teachers at the various state educational institutions; authorizing the issuance of revenue bonds of the state payable solely from the earnings of such dormitories, homes or refectories to pay the cost thereof; providing for the collection of rents, fees and charges for the payment of such bonds and for

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the cost of maintenance, operation and repair thereof; setting forth the conditions upon which such dormitories, refectories or homes shall become the property of the state; fixing certain powers and duties of the state board of control; declaring that no debt of the state shall be incurred in the exercise of any of the powers granted hereby; and providing for condemnation.

Be it enacted by the Legislature of West Virginia:

That article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, relating to the West Virginia board of control, be, and the same is hereby amended, by the addition thereto of new sections to be numbered sections twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four and thirty-five, respectively, to read as follows:

Section 24. The state board of control is hereby authorized
2 to provide, construct, erect, improve, equip, maintain and oper-
3 ate dormitories, homes or refectories on land owned by the
4 state for students or teachers at the various state educational
5 institutions, but the cost of construction, erection, improvement
6 or equipment shall be solely by means of or with the proceeds

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7 of the revenue bonds hereinafter authorized. The state board
8 of control shall have power and authority to employ engineer-
9 ing, architectural and construction experts, and such other
10 employees as may be necessary in its judgment, and fix their
11 compensation, all of whom shall do such work as the state board
12 of control shall direct, all of which shall be included as part
13 of the cost of the construction and equipment thereof.

Sec. 25. Whenever it shall become necessary, the state board
2 of control may condemn any interest, right or privilege, land
3 or improvement which in its opinion may be necessary, in the
4 manner provided by law for the acquisition by this state of
5 property for public purposes. The state shall be under no
6 obligation to accept and pay for any property condemned and
7 shall in no event pay for the same except from the funds pro-
8 vided hereinafter, and in any proceedings to condemn, such
9 orders shall be made by the court having jurisdiction of the
10 suit, action or proceedings as may be just to the state and to
11 the owners of property to be condemned, and a bond or other
12 security may be required by the court securing such owners
13 against any loss or damage to be sustained by reason of the
14 failure of the state to accept and pay for the property, but

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15 such bond or security shall impose no liability or debt on or of
16 the state as contemplated by the provisions of the constitution
17 of the state in relation to state debt.

Sec. 26. The state board of control may pay the cost as
2 defined in sections twenty-four to thirty-five, inclusive, of this
3 article, of any one or more of such dormitories, homes or refec-
4 tories out of the proceeds of revenue bonds of the state. The
5 said board is authorized to issue revenue bonds of the state,
6 by a resolution of the board which shall recite an estimate by
7 the board of such cost, the principal and interest of which
8 bonds shall be payable solely from the special fund herein pro-
9 vided for such payment. The board, after any such issue of
10 bonds or simultaneously therewith, may issue further issues of
11 bonds to pay the cost of any other one or more of such dormi-
12 tories, homes or refectories, in the manner and subject to all
13 of the provisions herein contained as to the bonds first men-
14 tioned in this section. All such bonds shall have and are hereby
15 declared to have all the qualities of negotiable instruments
16 under the law merchant. Such bonds shall bear interest at
17 not more than six percentum per annum, payable semi-an-
18 nually, and shall mature in not more than thirty years from

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19 their date or dates and may be made redeemable at the option
20 of the state, to be exercised by the state board of control, at
21 such price and under such terms and conditions as the board
22 may fix prior to the issuance of such bonds. The board shall
23 determine the form of such bonds, including coupons to be
24 attached thereto to evidence the right of interest payments,
25 which bonds shall be signed by the governor and the president
26 of the state board of control, under the great seal of the state,
27 attested by the secretary of the state, and the coupons attached
28 thereto shall bear the facsimile signature of the president of
29 the board. In case any of the officers whose signatures appear
30 on the bonds or coupons shall cease to be such officers before
31 the delivery of such bonds, such signatures shall nevertheless
32 be valid and sufficient for all purposes the same as if they had
33 remained in office until such delivery. The board shall fix the
34 denominations of such bonds, the principal and interest of
35 which shall be payable at the office of the treasurer of the state
36 of West Virginia, at the capitol of said state, or, at the option
37 of the holder, at some bank or trust company in the city of
38 New York to be named in the bonds, either in lawful money
39 or in gold coin of the United States of America, of or equal

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40 to the then current standard of weight and fineness, as may be
41 determined by the board. Such bonds shall be exempt from
42 taxation by the state of West Virginia or any county, school
43 district or municipality therein. The board may provide for
44 the registration of such bonds in the name of the owner as
45 to principal alone and as to both principal and interest under
46 such terms and conditions as the board may determine, and
47 shall sell such bonds in such manner as it may determine to
48 be for the best interest of the state, taking into consideration
49 the financial responsibility of the purchaser and the terms
50 and conditions of the purchase and especially the availability
51 of the proceeds of the bonds when required for payment of
52 the cost of the dormitories, homes or refectories, such sale to be
53 made at a price not lower than a price which, computed upon
54 standard tables of bond values, will show a net return of not
55 more than six percentum per annum to the purchaser based
56 on the purchase price thereof.

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57 The proceeds of such bonds shall be used solely for the pay-
58 ment of the cost of such dormitories, homes or refectories, and
59 shall be checked out by the president of the board and the
60 treasurer thereof and under such further restrictions, if any,

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61 as the board may provide. If the proceeds of such bonds,
62 by error or otherwise, shall be less than the cost of such dormi-
63 tories, homes or refectories, additional bonds may in like man-
64 ner be issued to provide the amount of such deficit, and, unless
65 otherwise provided in the trust agreement hereinafter men-
66 tioned, shall be deemed to be of the same issue and shall be
67 entitled to payment from the same fund, without preference
68 or priority of the bonds first issued for the same dormitory
69 or dormitories, home or homes, or refectory or refectories. If
70 the proceeds of bonds issued for any such dormitories, homes or
71 refectories shall exceed the cost thereof, the surplus shall be
72 paid into the fund hereinafter provided for payment of the
73 principal and interest of such bonds. Such fund may be
74 used for the purchase of any of the outstanding bonds payable
75 from such fund at the market price, but not exceeding the
76 price, if any, at which such bonds shall in the same year be
77 redeemable, and all bonds redeemed or purchased shall forth-
78 with be canceled and shall not again be issued.

79 Prior to the preparation of definitive bonds, the board may
80 under like restrictions issue temporary bonds with or without
81 coupons, exchangeable for definitive bonds upon the issuance

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82 of the latter. Such revenue bonds may be issued without any
83 other proceedings or the happening of any other conditions
84 and things than those proceedings, conditions and things which
85 are specified and required by this article or by the constitution
86 of the state.

Sec. 27. The state board of control may enter into an agree-
2 ment or agreements with any trust company or with any bank
3 having the powers of a trust company, either within or out-
4 side of the state, as trustee for the holders of the bonds issued
5 hereunder, setting forth therein such duties of the state and of
6 the board in respect of the acquisition, construction, erection,
7 improvement, maintenance, operation, repair and insurance of
8 the dormitories, homes or refectories, the conservation and
9 application of all moneys, the insurance of moneys on hand
10 or on deposit, and the rights and remedies of the trustee and
11 the holders of the bonds, as may be agreed on with the original
12 purchasers of such bonds, and including therein provisions re-
13 stricting the individual right of action of bondholders as is
14 customary in trust agreements respecting bonds and debentures
15 of corporations, protecting and enforcing the rights and reme-
16 dies of the trustee and the bondholders, and providing for

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17 approval by the original purchasers of the bonds, of the ap-
18 pointment of consulting engineers and of the security given
19 by those who contract to make improvements, and by any bank
20 or trust company in which the proceeds of bonds or rents,
21 fees or charges shall be deposited, and for approval by the
22 consulting engineers of all contracts for improvements. All
23 expenses incurred in carrying out such agreement may be
24 treated as a part of the cost of maintenance, operation and re-
25 pair of the dormitories, homes or refectories affected by the
26 agreement. Any such agreement entered into by the board
27 shall be binding in all respects on such board and their suc-
28 cessors from time to time in accordance with its terms and all
29 the provisions thereof shall be enforceable by appropriate pro-
30 ceedings at law or in equity, or otherwise.

Sec. 28. The state board of control shall properly maintain,
2 repair, operate, manage and control the fiscal affairs of such
3 dormitories, homes or refectories, fix the rates of rents, fees
4 or charges and establish rules and regulations for the use and
5 operation of such dormitories, homes or refectories, for the
6 welfare of the students or teachers, and may make and enter
7 into all contracts or agreements necessary and incidental to

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8 the performance of its duties and the execution of its powers
9 under this article.

Sec. 29. Rents, fees and charges shall be fixed, charged
2 and collected in connection with the use or occupancy of, or
3 service to be thereby rendered and furnished by, such dormi-
4 tories, homes or refectories, and shall be so fixed or adjusted,
5 in respect of the aggregate of rents, fees and charges from
6 the dormitories, homes or refectories for which a single issue
7 of bonds is issued, as to provide a fund sufficient to pay the
8 principal and interest of such issue of bonds and to provide
9 an additional fund to pay the cost of maintaining, repairing,
10 operating and insuring such dormitories, homes or refectories.
11 The rents, fees and charges from the dormitories, homes or
12 refectories for which a single issue of bonds is issued, except
13 such part thereof as may be necessary to pay such cost of
14 maintaining, repairing, operating and insuring during any
15 period in which such cost is not otherwise provided for (during
16 which period the rents, fees and charges may be reduced ac-
17 cordingly), shall be transmitted each month to the state sink-
18 ing fund commission and by it placed in a special fund which
19 is hereby pledged to and charged with the payment of the

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20 principal of such bonds and the interest thereon, and to the
21 redemption or repurchase of such bonds, such special fund to
22 be a fund for all such bonds without distinction or priority
23 of one over another. The moneys in such special fund, less
24 a reserve for payment of interest, if not used by the sinking
25 fund commission within a reasonable time for the purchase
26 of bonds for cancellation at a price not exceeding the market
27 price and not exceeding the redemption price, shall be applied
28 to the redemption of bonds by lot at the redemption price then
29 applicable: *Provided, however,* That if said revenue bonds are
30 sold to and purchased by the reconstruction finance corpora-
31 tion, created under and by virtue of the laws of the United
32 States of America, then at the option of said reconstruction
33 finance corporation in lieu of such moneys being transmitted
34 to the sinking fund commission and by it placed in a special
35 fund, the rents, fees and charges from the dormitories, homes
36 or refectories for which a single issue of bonds is issued, ex-
37 cept such part thereof as may be necessary to pay such cost
38 of maintaining, repairing, operating and insuring as provided
39 aforesaid, may be transmitted and paid to a trustee designated
40 and named by said reconstruction finance corporation in its

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41 agreement and contract with the state board of control, for
42 the payment of the principal of such bonds and the interest
43 thereon, under such terms and conditions as may be agreed
44 upon.

Sec. 30. When the particular bonds for any dormitory or
2 dormitories, home or homes, refectory or refectories, and the
3 interest on such bonds, shall have been paid, or a sufficient
4 amount has been provided for their payment and shall continue
5 to be held for that purpose, the said dormitories, homes or re-
6 fectories shall thereafter be exclusively the property of the
7 state of West Virginia, and thereafter the rents, fees and
8 charges collected for the use or occupancy of, or service ren-
9 dered and furnished by, such dormitories, homes or refectories
10 shall be paid into the state treasury as provided by the pro-
11 visions of section two, article two, chapter twelve of this code,
12 as amended, and used and expended for the benefit of the in-
13 stitution where collected.

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Sec. 31. Nothing in these sections dealing with dormitories,
2 homes or refectories shall be so construed or interpreted
2-a as to authorize or permit the incurring of state debt
3 of any kind or nature as contemplated by the constitution

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8 The said board of control is authorized and empowered to
9 enter into the necessary contracts and agreements to carry out
10 the purposes hereof with the reconstruction finance corporation
11 of the United States, or with any private or public agency, cor-
12 poration or individual: *Provided, however,* That if such bonds
13 are not sold to and purchased by said reconstruction finance
14 corporation, then the state board of control shall advertise such
15 bonds for sale, on sealed bids, which advertisement shall be
16 published at least once a week for three weeks, the first publi-
17 cation to be made at least twenty-one days preceding the date
18 fixed for the reception of bids, in two newspapers published
19 and of general circulation in the state and of opposite political
20 affiliation, and such advertisement shall also be published in a
21 financial paper published either in the city of New York or the
22 city of Chicago. The state board of control may reject any
23 and all bids. If the bonds be not sold pursuant to such adver-
24 tisement, they may, within sixty days after the date advertised

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25 for the reception of bids, be sold by the board at private sale,
26 but no private sale shall be made at a price less than the high-
27 est bid which shall have been received pursuant to such adver-
28 tisement. If not sold, such bonds shall be readvertised in the
29 manner herein provided.

Sec. 32. Sections twenty-four to thirty-five, inclusive, of this
2 article shall be deemed to provide an additional and alternative
3 method for the doing of the things authorized hereby and shall
4 be regarded as supplementary and additional to powers con-
5 ferred by other laws: *Provided, however,* That when any reve-
6 nue bonds are issued hereunder for the purposes provided by
7 sections twenty-four to thirty-five, inclusive, of this article,
8 for the benefit of any particular state educational institution,
9 no dormitories, homes or refectories shall thereafter be con-
10 structed, built or erected at such state educational institution
11 until the state board of control shall, by investigating and
12 hearing had thereon, under such rules as it may prescribe, de-
13 termine that there is an imperative public need for the con-
14 struction, building or erection of such dormitories, homes or
15 refectories, and that their construction, building or erection
16 and subsequent maintenance or operation will not materially

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17 injure the revenues of and from any dormitories, homes or
18 refectories constructed, built, erected, maintained or operated
19 at such state educational institution under the provisions of
20 sections twenty-four to thirty-five, inclusive, of this article.

Sec. 33. It shall not be necessary to secure from any officer
2 or board not named in sections twenty-four to thirty-five, inclu-
3 sive, of this article, any approval or consent or any certificate
4 or finding, or to hold any election, or to take any proceedings
5 whatever, either for the acquisition, construction or erection of
6 such dormitories, homes or refectories, or the improvement
7 thereof, or their maintenance, operation, repair or insurance,
8 or for the issuance of bonds hereunder, except such as are pre-
9 scribed in the sections herein named or are required by the con-
10 stitution of the state.

Sec. 34. Sections twenty-four to thirty-five, inclusive, of this
2 article being necessary for the health, welfare and convenience
3 of the students and teachers at the various state educational
4 institutions, shall be liberally construed to effectuate the pur-
5 poses thereof.

Sec. 35. The provisions and parts of sections twenty-four
2 to thirty-five, inclusive, of this article, are separable and are

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3 not matters of mutual essential inducement, and it is the inten-
4 tion to confer the whole or any part of the powers herein pro-
5 vided for, and if any of the sections or provisions, or parts
6 thereof, are for any reason illegal or invalid, it is the intention
7 that the remaining sections and provisions or parts thereof
8 shall remain in full force and effect.

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[Signature]
Chairman Senate Committee.

B. M. Siner
Speaker of the House of Delegates.

John S. Hall
Clerk of the House of Delegates.

A. M. [Signature]
President of the Senate.

[Signature]
Clerk of the Senate.

The within is.....

this..... day of..... 1933.

.....
Governor.

James L. Smith
Chairman House Committee.

Filed in the office of the Secretary of State
of West Virginia. **MAR 18 1933**
Wm. S. O'BRIEN,
Secretary of State