WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 242

(By Mr. Kincaid & Mr Bias)

PASSED Feb 16 1959

In Effect from Passage

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[Passed February 16, 1959; in effect from passage.]

AN ACT to amend and reenact sections one, two and three, article twelve-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authorization of the construction or acquisition of certain capital improvements at Marshall college and the issuance of revenue bonds therefor.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, article twelve-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *West Virginia Board of Education Authorized to Issue Revenue Bonds for Certain Capital Improvements.*—The West Virginia board of education shall have authority, as provided in this article, to issue revenue bonds of the state, not to exceed one million nine hundred thousand dollars in principal amount thereof, to finance the cost of providing a health and physical education building for Marshall college. The principal of and interest on such bonds shall be payable solely from the special non-revolving fund herein provided for such payment. The costs of any such building or buildings shall include the cost of acquisition of land, the construction and equipment of any such building or buildings, and the provision of roads, utilities and other services necessary, appurtenant or incidental to such building or buildings; and shall also include all other charges or expenses necessary, appurtenant or incidental to the construction, financing and placing in operation of any such building or buildings.

Sec. 2. *Special Marshall College Capital Improvements Fund Created in State Treasury; Collections to Be Paid into Special Fund; Authority of West Virginia Board of Education to Pledge Such Collection as Security for Revenue Bonds.*—There is hereby created in the state treasury a special non-revolving Marshall college capital improvements fund. On and after the first day of July, one thousand nine hundred fifty-seven, there shall be paid into such special fund all fees collected under the provisions of section one, article one-a, chapter twenty-five of this code, from students at Marshall college, except such fees as are required by that section to be paid into other special funds.

The board of education shall have authority to pledge all or such part of the revenue paid into the special Marshall college 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 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 right of the holders of bonds issued at different times under the provisions of this article. The board of education shall also have authority to use all or any or any part of the revenue paid into the special Marshall college capital improvements fund for the payment of all or any part of the cost of providing said health and physical education building for Marshall college: *Provided, however,* That in the event all or any part of such revenue is so used and applied, the amount of revenue bonds which the board of education may issue pursuant to this article shall be correspondingly reduced so that the total amount expended pursuant to this article for the payment of the cost of providing said health and physical education building for Marshall college shall not exceed one million nine hundred thousand dollars exclusive of any appropriations, grants, gifts, or contributions therefor.

If any balance shall remain in the special Marshall college capital improvements fund after the board has issued the maximum of one million nine hundred thousand dollars worth of bonds authorized by this article, and after the requirements of all sinking funds and reserve funds established in connection with the issue of such bonds have been satisfied, such balance 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 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 Marshall college 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.

Sec. 3. *Issuance of Revenue Bonds.*—The issuance of bonds under the provisions of this article shall be authorized by a resolution of the board of education, which shall recite an estimate by the board of the cost of the proposed building or buildings; 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 revenue paid into the special Marshall college capital improvements fund which is used to pay any part of the cost of providing said health and physical education building for Marshall college as authorized by section two of this article and less the amount of any other funds available for the construction of the building or buildings from any appropriation, grant, gift, or contribution 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 five per cent per annum, payable semi-annually; 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 per cent of the principal amount thereof, and be entitled to such priorities on the revenues paid into the special Marshall college 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 education, 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 building or buildings, 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 six per cent 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 building or buildings, 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, together with any other funds used therefore as hereinbefore in this article authorized, be less than the cost of such building or buildings, additional bonds may in like manner be issued to provide the amount of the deficiency, but in no case to exceed one million nine hundred thousand dollars less the amount of any other funds used therefor as hereinbefore in this article authorized; 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 building or buildings. If the proceeds of bonds issued for such building or buildings shall, together with the amount of any other funds used therefor as hereinbefore in this article authorized, exceed the cost thereof, the surplus shall be paid into the sinking fund to be established for 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 bonds issued under the provisions of this article shall be and have all the qualities of negotiable instruments under the law merchant and under the negotiable instruments law of this state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

W. N. Jasper Jr
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the House of Delegates.

Takes effect from passage.

J. Howard Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Ralph J. Bean
President of the Senate

H. R. Pauley
Speaker House of Delegates

The within approved this the 25th day of February, 1959.

Cecil H. Underwood
Governor