

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961



ENROLLED

HOUSE BILL No... 283

(By Mr. Poindexter and Mr. Casper)



PASSED March 9, 1961

In Effect Ninety Days from Passage

Filed in Office of the Secretary of State of West Virginia MAR 17 1961 JOE F. BURDETT SECRETARY OF STATE

283

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House Bill No. 283

(By MR. POINDEXTER and MR. CASEY)

[Passed March 9, 1961; in effect ninety days from passage.]

AN ACT to amend article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections nineteen, twenty-two, twenty-three and twenty-three-b, all relating to toll bridges and the powers and duties of the state road commissioner of West Virginia.

Be it enacted by the Legislature of West Virginia:

That article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections nineteen, twenty-two, twenty-three and twenty-three-b of said article, all to read as follows:

Section 19. *Bridge Revenue Bonds; Proceeds.*—The
2 commission may pay the cost as defined hereinabove of
3 any one or more such bridges by the issuance of bridge

4 revenue bonds of the state, by a resolution of the com-
5 mission which shall recite an estimate by the commission
6 of such cost, the principal and interest of which bonds
7 shall be payable solely from the special fund herein pro-
8 vided for such payment. The commission, after any such
9 issue of bonds or simultaneously therewith, may issue
10 further issues of bonds to pay the cost of any other one
11 or more of such bridges, in the manner and subject to all
12 of the provisions herein contained as to the bonds first
13 mentioned in this section. All such bonds shall have and
14 are hereby declared to have all the qualities of negotiable
15 instruments under the law merchant. Such bonds shall
16 bear interest at not more than six per cent per annum,
17 payable semiannually, and shall mature in not more than
18 forty years from their date or dates and may be made re-
19 deemable at the option of the state, to be exercised by
20 the commission, at such price and under such terms and
21 conditions as the commission may fix prior to issuance
22 of such bonds. The commission shall determine the form
23 of such bonds, including coupons to be attached thereto
24 to evidence the right of interest payments, which bonds

25 shall be signed by the governor and the chairman of the
26 commission, under the great seal of the state, attested
27 by the secretary of state, and the coupons attached there-
28 to shall bear the facsimile signature of the chairman of
29 the commission. In case any of the officers whose signa-
30 tures appear on the bonds or coupons shall cease to be
31 such officers before the delivery of such bonds, such sig-
32 natures shall nevertheless be valid and sufficient for all
33 purposes the same as if they had remained in office until
34 such delivery. The commission shall fix the denomina-
35 tions of such bonds, the principal and interest of which
36 shall be payable at the office of the treasurer of the state
37 of West Virginia, at the capitol of said state, or, at the
38 option of the holder, at some bank or trust company in
39 the city of New York to be named in the bonds, either
40 in lawful money or in gold coin of the United States, of
41 or equal to the then current standard of weight and fine-
42 ness, as may be determined by the commission. Such
43 bonds shall be exempt from taxation by the state of West
44 Virginia or any county or municipality therein. The com-
45 mission may provide for the registration of such bonds

46 in the name of the owner as to principal alone and as
47 to both principal and interest under such terms and con-
48 ditions as the commission may determine, and shall sell
49 such bonds in such manner as it may determine to be for
50 the best interest of the state, taking into consideration
51 the financial responsibility of the purchaser and the terms
52 and conditions of the purchase and especially the avail-
53 ability of the proceeds of the bonds when required for
54 payment of the cost of the bridges, such sale to be made
55 at a price not lower than a price which, computed upon
56 standard tables of bond values, will show a net return of
57 six per cent per annum to the purchaser upon the amount
58 paid therefor.

59 The proceeds of such bonds shall be used solely for the
60 payment of the cost of the bridges, and shall be checked
61 out by the chairman of the commission and the secretary-
62 treasurer thereof and under such further restrictions, if
63 any, as the commission may provide. If the proceeds
64 of such bonds, by error or calculation or otherwise, shall
65 be less than the cost of the bridge or bridges, additional
66 bonds may in like manner be issued to provide the amount

67 of such deficit, and, unless otherwise provided in the trust
68 agreement hereinafter mentioned, shall be deemed to be
69 of the same issue and shall be entitled to payment from
70 the same fund, without preference or priority of the bonds
71 first issued for the same bridge or bridges. If the pro-
72 ceeds of bonds issued for any bridge or bridges shall ex-
73 ceed the cost thereof, the surplus shall be paid into the
74 fund hereinafter provided for payment of the principal
75 and interest of such bonds. Such fund may be used for
76 the purchase of any of the outstanding bonds payable
77 from such fund at the market price, but at not exceeding
78 the price, if any, at which such bonds shall in the same
79 year be redeemable, and all bonds redeemed or purchased
80 shall forthwith be cancelled and shall not again be issued.

81 Prior to the preparation of definitive bonds, the com-
82 mission may under like restrictions issue temporary bonds
83 with or without coupons, exchangeable for definitive
84 bonds upon the issuance of the latter. Such revenue bonds
85 may be issued without any other proceedings or the hap-
86 pening of any other conditions or things than those pro-
87 ceedings, conditions and things which are specified and

88 required by this article or by the constitution of the state.

Sec. 22. *Toll to Be Charged; Intrastate and Interstate
2 Bridges; Purchase of Existing Bridges; Disposition of
3 Tolls.*—Tolls shall be fixed, charged and collected for
4 transit over such bridges and shall be so fixed and ad-
5 justed, in respect of the aggregate of tolls from the bridge
6 or bridges for which a single issue of bonds is issued, as
7 to provide a fund sufficient to pay the principal and inter-
8 est of such issue of bonds and to provide an additional
9 fund to pay the cost of maintaining, repairing and operat-
10 ing such bridge or bridges, subject, however to any ap-
11 plicable law or regulation of the United States of America
12 now in force or hereafter to be enacted or made. Two
13 or more bridges may be included in one issue of bonds,
14 and intrastate and interstate bridges may be grouped in
15 the same issue: *Provided*, That no existing bridge or
16 bridges shall be acquired by purchase, eminent domain, or
17 otherwise, unless the state road commissioner shall have
18 determined that the income therefrom, based upon the
19 toll receipts for the next preceding fiscal or calendar year,
20 will be sufficient to pay all expenses of operating and

21 maintaining such bridge, in addition to the interest and
22 sinking fund requirements of any bonds to be issued to
23 pay the purchase price thereof, or, if such existing bridge
24 or bridges are to be combined with any other bridge
25 or bridges, either then existing or thereafter to be con-
26 structed or acquired by purchase, eminent domain, or
27 otherwise, as provided in section twenty-three-b follow-
28 ing, unless the state road commissioner shall have deter-
29 mined that the income from such combined bridges, based
30 upon the toll receipts for the next preceding fiscal or
31 calendar year in the case of any existing bridge or bridges
32 and upon estimates of future toll receipts in the case of
33 any bridge or bridges to be constructed, will be sufficient
34 to pay all expenses of operating and maintaining such
35 combined bridges, in addition to the interest and sinking
36 fund requirements of any bonds issued to pay the pur-
37 chase price of such existing bridge or bridges and the in-
38 terest and sinking fund requirements of any bonds issued
39 to pay the cost of construction, acquiring, modernizing, re-
40 pairing, reconstructing or improving any bridge or bridges
41 and approaches thereto, with which such existing bridge

42 or bridges are to be so combined. The tolls from the bridge
43 or bridges for which a single issue of bonds is issued,
44 except such part thereof as may be necessary to pay such
45 cost of maintaining, repairing and operating during any
46 period in which such cost is not otherwise provided for
47 (during which period the tolls may be reduced accor-
48 ingly), shall be transmitted each month to the state sink-
49 ing fund commission and by it placed in a special fund
50 which is hereby pledged to and charged with the payment
51 of the principal of such bonds and the interest thereon,
52 and to the redemption or repurchase of such bonds, such
53 special fund to be a fund for all such bonds without dis-
54 tinction or priority of one over another. The moneys in
55 such special fund, less a reserve for payment of interest,
56 if not used by the sinking fund commission within a
57 reasonable time for the purchase of bonds for cancella-
58 tion at a price not exceeding the market price and not
59 exceeding the redemption price, shall be applied to the
60 redemption of bonds by lot at the redemption price then
61 applicable.

62 Any bridge or bridges constructed or acquired by pur-

63 chase, eminent domain, or otherwise, or reconstructed, re-
64 paired or improved, under the provisions of this act and
65 forming a connecting link between two or more state
66 highways, or providing a river crossing for a state high-
67 way, are hereby adopted as a part of the state road sys-
68 tem, but no such bridge or bridges shall be constructed
69 or acquired by purchase, eminent domain, or otherwise,
70 or reconstructed, repaired or improved, under the pro-
71 visions of this act without the approval in writing of
72 the state road commissioner and the governor. If there
73 be in the funds of the state sinking fund commission an
74 amount insufficient to pay the interest and sinking fund
75 on any bonds issued for the purpose of constructing or
76 acquiring by purchase, eminent domain, or otherwise, or
77 reconstructing, repairing or improving, such bridge or
78 bridges, the state road commissioner is authorized and
79 directed to allocate to said commission, from the state
80 road fund, an amount sufficient to pay the interest on said
81 bonds and/or the principal thereof, as either may become
82 due and payable.

Sec. 23. *When Tolls to Cease.*—When the particular

2 bonds issued for any bridge or bridges and the interest
3 thereon shall have been paid, or a sufficient amount shall
4 have been provided for their payment and shall continue
5 to be held for that purpose, and there are no operating
6 or maintenance expenses outstanding, and any advances
7 made from the state road fund toward the construction,
8 operation and maintenance of such bridge or bridges shall
9 have been repaid, the authority operating such bridge or
10 bridges shall cease the collection of tolls for the use there-
11 of: *Provided, however,* That the commissioner may, in
12 his discretion, continue thereafter tolls for a period suffi-
13 cient to accumulate sufficient funds to pay for major main-
14 tenance and repairs foreseeable as being needed on such
15 bridge or bridges in the immediate future: *And provided*
16 *further,* That tolls may be imposed or reimposed on any
17 such bridge or bridges in the manner provided in section
18 twenty-three-b following. Thereafter, and as long as the
19 cost of maintaining, repairing and operating such bridge
20 or bridges is being provided for through means other
21 than tolls, no tolls shall be charged for transit thereover
22 and such bridge or bridges shall be free: *Provided, how-*

23 ever, That notwithstanding any other provision of law,
24 if any portion of the cost of construction of a toll bridge
25 is financed, with the aid of federal funds under federal-
26 aid road legislation and the share of the cost of such bridge
27 borne by the state or its subdivisions shall have been
28 repaid from tolls, or a fund sufficient for such repayment
29 shall have been provided or set aside for that purpose,
30 tolls for the use of such bridge shall cease and such bridge
31 shall thereafter be maintained and operated as a free
32 bridge.

Sec. 23-b. *Combining of Bridges; Imposition or Reim-*
2 *position of Tolls upon Existing Bridges; Revenue Bonds;*
3 *Disposition of Tolls.*—The commissioner is hereby au-
4 thorized and empowered to combine any two or more
5 bridges, including existing bridges and bridges to be con-
6 structed or acquired by purchase, eminent domain or
7 otherwise and to pledge all or any part of the revenue
8 derived from such combined bridges to the payment of
9 interest and sinking fund requirements of any bonds is-
10 sued in respect of said combined bridges, or either of them,
11 pursuant to this section.

12 The commissioner is hereby authorized to impose or
13 reimpose tolls or other charges on any existing bridge or
14 bridges which shall be combined, pursuant to this section,
15 with any other bridge, either existing or to be constructed
16 or acquired and the tolls and other charges fixed by the
17 commissioner for the bridges so combined, pursuant to
18 this section, shall be fixed and adjusted in respect to the
19 aggregate of tolls from the bridges so combined, so as to
20 be sufficient to pay all expenses of operating, maintaining
21 and repairing the combined bridges and the interest and
22 sinking fund requirements of any bonds issued in respect
23 of said combined bridges, or either of them, pursuant
24 to this section: *Provided, however,* That no such tolls or
25 other charges shall be imposed or reimposed on any
26 existing bridge unless the imposition or reimposition
27 thereof shall have, first, been approved by a resolution
28 duly adopted by the council or other governing body of
29 the municipality in which such existing bridge is situate,
30 or, if such existing bridge is not situate within the limits
31 of a municipality, then the imposition or reimposition of
32 such tolls or other charges shall be first approved by an

33 order duly adopted by the county court of the county or
34 counties in which such existing bridge is situate. In
35 either case, a certified copy of the resolution or order
36 shall be filed with the commissioner.

37 The tolls and other charges from bridges so combined
38 pursuant to this section, for which bonds are issued pur-
39 suant to this section, except such part thereof as may
40 be necessary to pay the cost of maintaining, repairing,
41 and operating such bridges during any period in which
42 such cost is not otherwise provided for (during which
43 period the tolls may be reduced accordingly), shall be
44 transmitted each month to the state sinking fund com-
45 mission and by it placed in a special fund which is hereby
46 pledged to and charged with the payment of the princi-
47 pal of such bonds and the interest thereon, and to the
48 redemption or repurchase of such bonds, such special fund
49 to be a fund for all such bonds without distinction or
50 priority of one over another. The moneys in such special
51 fund, less a reserve for payment of interest and sinking
52 fund requirements, if not used by the sinking fund com-
53 mission within a reasonable time for the purchase of bonds

54 for cancellation at a price not exceeding the market price
55 and not exceeding the redemption price, shall be applied
56 to the redemption of bonds by lot at the redemption price
57 then applicable.

58 The commission may pay the cost, as hereinbefore in
59 this article defined, of construction or acquisition by pur-
60 chase, eminent domain or otherwise of any bridge or
61 bridges combined with any other bridge or bridges pur-
62 suant to this section and/or the cost of modernization,
63 improvement, repair and reconstruction of any existing
64 bridge so combined with any other bridge or bridges
65 pursuant to this section, including modernization, im-
66 provement, repair, reconstruction, construction and acqui-
67 sition of approaches thereto, by the issuance of bridge
68 revenue bonds of the state. Any such bridge revenue
69 bonds shall be issued in the manner and in accordance
70 with the procedure for the issuance of bridge revenue
71 bonds hereinbefore set forth in this article: *Provided,*
72 *however,* That nothing in this article shall be construed
73 to permit any combination of an existing toll bridge with

74 any other bridge at any time when there are bonds on
75 such existing toll bridge unpaid or when any such toll
76 bridge bonds, either the principal or interest thereon, are
77 in default.

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

Howard Davis, Jr.

Chairman Senate Committee

Mrs. H. H. Withrow

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Meyer

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

Howard Wearson

President of the Senate

Julius W. Singleton Jr.

Speaker House of Delegates

The within approved this the 17th
day of March, 1961.

W. W. Barron

Governor

Filed in Office of the Secretary of State
of West Virginia
1961
MAR 17 1961
JOE F. BURDETT
SECRETARY OF STATE