WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963

ENROLLED

SENATE BILL NO. 113

(By Mr. Smith and Mr. McKown)

PASSED Feb. 22 1963

In Effect July 1, 1963 Passage

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AN ACT to amend and reenact sections one, two, three and five, article twelve-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to revenue bonds for Marshall University capital improvements.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three and five, 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 Improve-

ments.—The West Virginia Board of Education shall have authority, as provided in this article, to issue revenue bonds of the state, not to exceed five million seven hundred thousand dollars in principal amount thereof, which shall be in addition to the one million nine hundred thousand dollars bonds heretofore issued pursuant to this article, to finance the cost of providing a new classroom and office building, an addition to the library, renovation of administration building and additional land for a new student center building for Marshall University. 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 or improvements 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 University Capital Improvements Fund Created in State Treasury; Collections to Be Paid into Special Fund; Authority of West Virginia Board of Education to Pledge Such Collections as Security for Revenue Bonds.—There is hereby created in the state treasury a special non-revolving Marshall University capital improvements fund. On and after the first day of July, one thousand nine hundred sixty-three, or on and after the date of the final payment of all principal of and interest on the one million nine hundred thousand dollars bonds heretofore issued pursuant to this article, or the making of adequate provision for the payment of all principal of and interest on said one million nine hundred thousand dollars bonds, whichever is later, 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 University, 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 University 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 rights 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 part of the revenue paid into the special Marshall University capital improvements fund for the payment of all or any part of the cost of providing said classroom and office building, addition to the library, renovation of administration building and additional land for a new student center building for Marshall University: *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 classroom and office building, addition to the library, renovation of administration building and additional land for a new student center building for Marshall University shall not exceed five million seven hundred thousand dollars exclusive of any appropriations, grants, gifts, or contributions therefor.

If any balance shall remain in the special Marshall University capital improvements fund after the board has issued the maximum of five million seven 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 in each year as provided in the resolution or trust agreement authorizing the issuance of such bonds, such balance 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 pur-

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chase of bonds at the market price, but at not exceeding the price, if any, at which such bonds shall be redeemable on the next ensuing date upon which such bonds are redeemable prior to maturity, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. Whenever all outstanding bonds issued under this article shall have been paid, the special Marshall University 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, improvements and land; 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 University capital improvements fund which is used to pay any part of the cost of providing such classroom and office building, addition to the library, renovation of administration building and additional land for a new student center building for Marshall University as authorized by section two of this article and less the amount of any other funds available for the construction or acquisition of the building or buildings, improvements and land 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 University 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 interests 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, improvements and land, 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, improvements and land, 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 therefor as hereinbefore in this article authorized, be less than the cost of such building or buildings, improvements and land, additional bonds may in like manner be issued to provide the amount of the deficiency, but in no case to exceed five million seven 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, improvements and land 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 or reserve 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.

Sec. 5. Sinking Fund for Payment of Bonds.—From the special Marshall University capital improvements fund the board shall make periodic payments to the state sinking fund commission in an amount sufficient to meet the requirements of any issue of bonds sold under the provisions of this article, as specified in the resolution of the board authorizing the issue and in any trust agreement entered into in connection therewith. The payments so made shall be placed by the commission in a special sinking fund which is hereby pledged to and charged with the payment of the principal of the bonds of such issue and the interest thereon, and to the redemption or repurchase of such bonds, such sinking fund to be a fund for all bonds of such issue without distinction or priority of one over another. The moneys in the special sinking fund, less such reserve for payment of principal and interest as may be required by the resolution of the board authorizing the issue and any trust agreement made in connection therewith, may be used for the redemption of any of the outstanding bonds payable from such fund 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 be redeemable on the next ensuing date upon which such bonds are redeemable prior to maturity, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued.

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

C. Roy Parker
Chairman Senate Committee

Ethel L. Crandall
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1963 passage.

J. Howard Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within approved this the 2nd

day of March, 1963.

W. W. Barron
Governor