

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1971

ENROLLED

HOUSE BILL No. 102

(By Mr. Speaker, Mr. McManus  
and Mr. Leibert)

PASSED April 29 1971

In Effect July 1, 1971 Passage



FILED IN THE OFFICE  
JOHN D. KENNEDY, IV  
SECRETARY OF STATE  
THIS DATE 4-30-71

107

**ENROLLED**

**House Bill No. 107**

(By MR. SPEAKER, MR. McMANUS, and MR. SEIBERT)

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[Passed April 29, 1971; in effect July 1, 1971.]

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AN ACT to amend and reenact chapter one hundred forty, acts of the Legislature, regular session, one thousand nine hundred seventy-one, authorizing the issuance and sale by the governor of bonds of the state of West Virginia, under authority of the Roads Development Amendment of 1968, in an amount not exceeding ninety million dollars during the fiscal year ending June thirtieth, one thousand nine hundred seventy-two, for the sole purpose of raising funds for the building and construction of free state roads and highways as provided for by the constitution and the laws enacted thereunder; specifying the powers of and limitations upon the governor in the issuance and sale of such bonds; prescribing the duties of the auditor

and treasurer with respect to such bonds; providing for transfer and registration fees with respect to registered bonds and the disposition of such fees; providing for places of payment of principal and interest on such bonds; exempting such bonds from taxation by the state, or by any county, district, or municipality thereof; setting forth the form of coupon and registered bonds and coupons; stating what moneys shall be paid into the state road sinking fund; providing for the disposition and investment of the state road sinking fund; providing a covenant between the state and the bondholders; providing that the proceeds from the sale of the bonds shall be paid into a separate and distinct account in the state road fund and for expenditures from such account; providing that the plates, etc., from which the bonds are produced or made shall be the property of the state; providing for interim certificates in lieu of permanent bonds; providing for the state treasurer to be financial advisor; providing for the attorney general or his duly appointed legal representative to serve as bond counsel; and providing that all necessary expenses, including legal expenses approved by the

attorney general, incurred in the execution of this act shall be paid out of the state road fund on warrants of the auditor of the state drawn on the state treasurer.

*Be it enacted by the Legislature of West Virginia:*

**ISSUANCE AND SALE OF ROAD BONDS.**

**§1. Road bonds; amount; when may issue.**

1 Bonds of the state of West Virginia, under authority  
2 of the Roads Development Amendment of 1968, of the  
3 par value not to exceed ninety million dollars during  
4 the fiscal year ending June thirty, one thousand nine  
5 hundred seventy-two, are hereby authorized to be issued  
6 and sold for the sole purpose of raising funds for the  
7 building and construction of free state roads and high-  
8 ways as provided for by the constitution and the laws  
9 enacted thereunder. Such bonds may be issued by the  
10 governor in such amounts, in coupons or registered  
11 form, in such denominations, at such time, bearing such  
12 date or dates, as the governor may determine, based upon  
13 an examination of the West Virginia department of high-  
14 ways' yearly program which justifies the issuance by the  
15 governor of said bonds, and shall become due and payable

16 serially, annually or semiannually, in such amounts and  
17 mature in such years as the governor may determine:  
18 *Provided*, That such bonds shall mature within and not  
19 exceeding twenty-five years from their date: *Provided*  
20 *further*, That the governor shall not offer for sale more  
21 than thirty million dollars of bonds at any one time:  
22 *Provided further*, That the Governor must offer said  
23 bonds for competitive bids from recognized financial in-  
24 vestment institutions before said bonds may be sold.

**§2. Transfer fee; registration fee; where payable; interest rate; tax exempt.**

1 The auditor and the treasurer are hereby authorized  
2 to arrange for the transfer of registered bonds and for  
3 each such transfer a fee of fifty cents shall be charged  
4 by and paid to the state of West Virginia, to the credit  
5 of the state road sinking fund. Bonds taken in exchange  
6 shall be cancelled by the auditor and treasurer and be  
7 carefully preserved by the treasurer. The treasurer shall  
8 make provisions for registering "payable to bearer" bond  
9 and for each bond registered a fee of fifty cents shall  
10 likewise be charged by and paid to the state of West

11 Virginia, to the credit of the state road sinking fund. All  
12 such bonds shall be payable at the office of the trea-  
13 surer of the state of West Virginia, or, at the option of the  
14 holder, at a bank in the city of New York to be desig-  
15 nated by the governor, or, at the option of the holder  
16 at such other bank or banks, within the state, as  
17 may be designated or approved by the governor.  
18 The bonds shall bear interest, payable semiannually,  
19 to bearer, at the office of the treasurer of the  
20 state of West Virginia, at the capitol of the state, or  
21 at the banks designated and approved by the governor,  
22 upon presentation and surrender of interest coupons,  
23 then due, in the case of coupon bonds. For the payment  
24 of interest on registered bonds, the treasurer of the  
25 state of West Virginia shall requisition a warrant from  
26 the auditor of the state to be drawn on the state trea-  
27 surer, and shall mail such warrant to the registered  
28 owner at the address as shown by the record of regis-  
29 tration. Both the principal and interest of the bonds  
30 shall be payable in lawful money of the United States  
31 of America and the bonds shall be exempt from taxation

32 by the state of West Virginia, or by any county, dis-  
33 trict or municipality thereof, which facts shall appear  
34 on the face of the bonds as part of the contract with the  
35 holder thereof.

**§3. Form of bond.**

1 The bonds shall be executed on behalf of the state  
2 of West Virginia, by the manual or facsimile signature  
3 of the treasurer thereof, under the great seal of the  
4 state or a facsimile thereof, and countersigned by the  
5 manual or facsimile signature of the auditor of the state:  
6 *Provided*, That one of said signatures on said bonds shall  
7 be a manual signature and said bonds shall be in the  
8 following form or to the following effect, as nearly as  
9 may be, namely:

10 COUPON ROAD BOND

11 (Or registered road bond, as the case may be)

12 OF THE

13 STATE OF WEST VIRGINIA

14 \$..... No.....

15 The state of West Virginia, under and by virtue of au-  
16 thority of an amendment to the constitution, which was

17 proposed by Senate Joint Resolution No. 2, adopted  
18 the eighth day of February, one thousand nine hundred  
19 sixty-eight, and was ratified by a vote of the people at  
20 the general election on the fifth day of November, one  
21 thousand nine hundred sixty-eight, which is hereby  
22 made a part hereof as fully as if set forth at length  
23 herein, acknowledges itself to be indebted to and hereby  
24 promises to pay to the bearer hereof (in case of a coupon  
25 bond) or to \_\_\_\_\_ or assigns (the  
26 owner of record, in case of registered bonds) on the  
27 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, in  
28 lawful money of the United States of America at the  
29 office of the treasurer of the state of West Virginia at  
30 the capitol of said state, or, at \_\_\_\_\_  
31 bank in the city of New York, or, at \_\_\_\_\_  
32 bank, at the option of the holder, the sum of \_\_\_\_\_  
33 dollars, with interest thereon at \_\_\_\_\_ per  
34 centum per annum from the date, payable semiannually  
35 in like lawful money of the United States of America  
36 at the treasurer's office or banks aforesaid, on the first  
37 day of \_\_\_\_\_ and the first day of \_\_\_\_\_



38 of each year (and in the case of coupon bonds) according  
39 to the tenor of the annexed coupons bearing the fac-  
40 simile signature of the treasurer of the state of West  
41 Virginia, upon surrender of such coupons. This bond  
42 (in case of a coupon bond) may be exchanged for a  
43 registered bond of like tenor upon application to the  
44 treasurer of the state of West Virginia.

45 (Redemption provisions, if any, to be inserted here)

46 To secure the payment of the principal and interest of  
47 this bond, the state of West Virginia covenants and  
48 agrees with the holder as follows: (1) That this bond  
49 shall constitute a direct and general obligation of the  
50 state of West Virginia; (2) that the full faith and credit  
51 of the state is pledged to secure the payment of the  
52 principal and interest of this bond; (3) that an annual  
53 state tax shall be collected in an amount sufficient to  
54 pay as it may accrue the interest on this bond and the  
55 principal thereof; and (4) that such tax shall be levied  
56 in any year only to the extent that the moneys in the  
57 state road fund irrevocably set aside and appropriated  
58 for and applied to the payment of the interest on and

59 principal of this bond becoming due and payable in such  
60 year are insufficient therefor.

61 This bond is hereby made exempt from any taxation  
62 by the state of West Virginia, or by any county, dis-  
63 trict, or municipal corporation thereof.

64 In testimony whereof, witness the manual or facsimile  
65 signature of the treasurer of the state of West Virginia,  
66 and the manual or facsimile countersignature of the  
67 auditor of the state, hereto affixed according to law,  
68 dated the ..... day of ....., one  
69 thousand nine hundred ....., and  
70 the seal of the state of West Virginia or a facsimile  
71 thereof.

72

73 Treasurer of the State of West Virginia

74 (SEAL)

75 Countersigned:

76 .....

77 Auditor of the State of West Virginia

**§4. Form of coupon.**

1 The form of coupon shall be substantially as follows,

2 to wit:

## 3                   STATE OF WEST VIRGINIA

4   Bond No. .... Coupon No. ....

5   On the first day of ....., 19.....,

6   the state of West Virginia will pay to the bearer, in

7   lawful money of the United States of America, at the

8   office of the treasurer of the state, or, at .....

9   bank in the city of New York, or, at .....,

10   at the option of the holder, the sum of .....

11   dollars, the same being semiannual interest on Road

12   Bond No. ....

13                   .....

14                   Treasurer of the State of West Virginia

15   The signature of the treasurer to such coupon shall

16   be by his facsimile signature and the coupons shall be

17   numbered in the order of their maturity, from number

18   one consecutively. The bonds and coupons may be signed,

19   as provided in this act, by the present treasurer and

20   auditor, or by any of their respective successors in office,

21   and the bonds signed by the persons now in the office

22   may be sold by the governor or his successor in office

23   without being signed by the successor in office of the

24   present treasurer or auditor.

**§5. Listing by auditor.**

1 All coupons and registered bonds issued under this  
2 act shall be separately listed by the auditor of the state  
3 in books provided for the purpose, in each case giving  
4 the date, number, character and amount of obligations  
5 issued, and in case of registered bonds, the name and  
6 post-office address of the person, firm or corporation reg-  
7 istered as the owner thereof.

**§6. State road sinking fund sources used to pay bonds and interest; investment of remainder.**

1 Into the state road sinking fund there shall be paid  
2 all money from any and all appropriations made by the  
3 state from the state road fund for the purpose of paying  
4 the interest on such bonds or paying off and retiring  
5 the bonds, from transfer and registration fees as herein  
6 provided, and from any other source whatsoever which  
7 is made liable by law for the payment of the principal  
8 of such bonds or the interest thereon.

9 All such funds shall be kept by the treasurer in a  
10 separate account, under the designation aforesaid, and  
11 all moneys belonging to the fund shall be deposited in  
12 the state treasury to the credit thereof.

13 Such fund shall be applied by the treasurer of the  
14 state first to the payment of the semiannual interest on  
15 such bonds as it shall become due as herein provided.  
16 The remainder of the fund shall be turned over by  
17 the state treasurer to the state sinking fund commission,  
18 whose duty it shall be to invest the same in obligations  
19 of the government of the United States, bonds of the  
20 state of West Virginia, or any political subdivision  
21 thereof: *Provided*, That bonds or other obligations so  
22 purchased by the state sinking fund commission shall  
23 mature so as to provide sufficient money to pay off all  
24 bonds herein provided to be issued as they become due;  
25 and the money so paid into the state road sinking fund  
26 under the provisions of this act shall be expended for  
27 the purpose of paying the interest and principal of the  
28 bonds hereby provided for as they severally become  
29 due and payable and for no other purpose except that  
30 the fund may be invested until needed, as herein pro-  
31 vided.

**§7. Covenants of state.**

1 The state of West Virginia covenants and agrees with  
2 the holders of the bonds issued pursuant hereto as fol-

3 lows: (1) That such bonds shall constitute a direct  
4 and general obligation of the state of West Virginia;  
5 (2) that the full faith and credit of the state is hereby  
6 pledged to secure the payment of the principal and in-  
7 terest of such bonds; (3) that an annual state tax shall  
8 be collected in an amount sufficient to pay as it may  
9 accrue the interest on such bonds and the principal  
10 thereof; and (4) that such tax shall be levied in any  
11 year only to the extent that the moneys in the state  
12 road fund irrevocably set aside and appropriated for  
13 and applied to the payment of the interest on and prin-  
14 cipal of said bonds becoming due and payable in such  
15 year are insufficient therefor.

**§8. Sale by governor; minimum price.**

1 The governor shall sell the bonds herein authorized  
2 at such time or times as he may determine necessary to  
3 provide funds for the building and construction of free  
4 state roads and highways, as herein provided, upon the  
5 recommendation of the West Virginia commissioner of  
6 highways, and after reviewing the program of the West  
7 Virginia department of highways and subject to the limi-

8 tations contained in this act. All sales shall be at not less  
9 than par and accrued interest. All interest coupons be-  
10 coming payable prior to the sale date shall be cancelled  
11 by the treasurer and rendered ineffective, before the  
12 delivery of the bonds so sold.

**§9. Proceeds paid into separate account in state road fund;  
expenditures.**

1 The proceeds of all sales of bonds herein authorized  
2 shall be paid into a separate and distinct account in the  
3 state road fund and shall be used and appropriated solely  
4 for the building and construction of free state roads  
5 and highways provided for by the state constitution and  
6 the laws enacted thereunder. Except for such sums  
7 necessary for current operating balances, such account  
8 shall be invested and reinvested in short-term obliga-  
9 tions of the United States treasury: *Provided*, That no  
10 such investment or reinvestment shall adversely affect  
11 the current operating balances of such account.

**§10. Plates, etc., property of state.**

1 The plates, casts, dies or other forms from which the  
2 bonds authorized by this act are produced or made shall  
3 be the property of the state of West Virginia.

**§11. Auditor to be custodian of unsold bonds.**

1 The state auditor shall be the custodian of all unsold  
2 bonds issued pursuant to the provisions of this act.

**§12. Interim certificates.**

1 The governor may authorize the issuance of interim  
2 certificates to be issued to the purchasers of such bonds  
3 to be held by them in lieu of permanent bonds. When  
4 interim certificates are so issued, they shall become full  
5 and legal obligations of the state of West Virginia under  
6 all of the provisions of this act just as fully and com-  
7 pletely as the permanent bonds.

**§13. State treasurer to be financial advisor; redemption of bonds.**

1 The state treasurer shall serve as financial advisor to  
2 the governor for the issuance and sale of such bonds.

**§14. Attorney general or his duly appointed legal representative to serve as bond counsel.**

1 The attorney general, or his duly appointed legal rep-  
2 resentative, shall serve as bond counsel and shall be  
3 responsible for the issuance of a final approving opinion  
4 regarding the legality of the sale of such bonds.



**§15. Approval and payment of all necessary expenses.**

1 All necessary expenses, including legal expenses ap-  
2 proved by the attorney general, incurred in the execution  
3 of this act shall be paid out of state road fund on war-  
4 rants of the auditor of the state drawn on the state  
5 treasurer.

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

Russell G. Bane  
Chairman Senate Committee

Phyllis J. Rutledge  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1971.

J. Howard Myers  
Clerk of the Senate

ca Blankenship  
Clerk of the House of Delegates

G. M. Bount  
President of the Senate

Lewis N. McMenis  
Speaker House of Delegates

The within approved this the 30th  
day of April, 1971.

Archie D. Moore, Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/30/71  
Time 8:30 a.m.