WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1971

ENROLLED

HOUSE BILL No. 108

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

PASSED April 29, 1971

In Effect July 1, 1971

Filed in the Office of J. D. Cockrell, IV, Secretary of State
This Date 4-30-71
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House Bill No. 108
(By Mr. McManus, Mr. Speaker, and Mr. Seibert)

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

AN ACT to amend and reenact chapter one hundred forty-one, 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 Better Roads Amendment of 1964, in an amount not exceeding twenty 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 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 at-
torney 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.

Bonds of the state of West Virginia, under authority of the Better Roads Amendment of 1964, of the par value not to exceed twenty million dollars during the fiscal year ending June thirty, one thousand nine hundred and sixty-two, are hereby authorized to be issued and sold for the sole purpose of raising funds for the building and construction of state roads and highways as provided for by the constitution and the laws enacted thereunder. Such bonds may be issued by the governor in such denominations, at such time, bearing such date or dates as the governor may determine, based upon an examination of the West Virginia department of highways' yearly program which justifies the issuance by the governor of said bonds, and shall become due and payable serially, annually
or semiannually, in such amounts and mature in such years as the governor may determine: Provided, That such bonds shall mature within and not exceeding twenty-five years from their date: Providing further, That the Governor must offer said bonds for competitive bids from recognized financial investment institutions before said bonds may be sold.

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

The auditor and the treasurer are hereby authorized to arrange for the transfer of registered bonds and for each such transfer a fee of fifty cents shall be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. Bonds taken in exchange shall be cancelled by the auditor and treasurer and be carefully preserved by the treasurer. The treasurer shall make provisions for registering "payable to bearer" bonds, and for each bond registered a fee of fifty cents, shall likewise be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. All such bonds shall be payable at the office of the treasurer of the state of West Virginia, or, at the option of the holder, at a bank in the city of New York.
to be designated by the governor, or, at the option
of the holder at such other bank or banks, within the state,
as may be designated or approved by the governor. The
bonds shall bear interest, payable semiannually, to bearer,
at the office of the treasurer of the state of West Virginia,
at the capitol of the state, or at the banks designated and
approved by the governor, upon presentation and surren-
der of interest coupons then due, in the case of coupon
bonds. For the payment of interest on registered bonds, the
treasurer of the state of West Virginia shall requisition a
warrant from the auditor of the state to be drawn on the
state treasurer, and shall mail such warrant to the regis-
tered owner at the address as shown by the record of regis-
tration. Both the principal and interest of the bonds shall
be made payable in lawful money of the United States
of America and the bonds shall be exempt from taxation
by the state of West Virginia, or by any county, dis-
trict, or municipality thereof, which facts shall appear
on the face of the bonds as part of the contract with
the holder thereof.

§3. **Form of bond.**

The bonds shall be executed on behalf of the state
of West Virginia, by the manual or facsimile signature of
the treasurer thereof, under the great seal of the state or
a facsimile thereof, and countersigned by the manual or
facsimile signature of the auditor of the state: Provided,
That one of said signatures on said bonds shall be a man-
ual signature and said bonds shall be in the following form
or to the following effect, as nearly as may be, namely:

COUPON ROAD BOND

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

OF THE

STATE OF WEST VIRGINIA

The state of West Virginia, under and by virtue of
authority of an amendment to the constitution, which
was proposed by House Joint Resolution No. 10, adopted
the seventh day of March, one thousand nine hundred
sixty-three, and was ratified by a vote of the people
at the general election on the third day of November,
one thousand nine hundred sixty-four, which is here-
by made a part hereof as fully as if set forth at length
herein, acknowledges itself to be indebted to and hereby
promises to pay to the bearer hereof (in case of a coupon bond) or to ______________ or assigns (the owner of record, in case of registered bonds) on the _____ day of ______________, 19__, in lawful money of the United States of America at the office of the treasurer of the state of West Virginia at the capitol of said state, or, at ___________________ bank in the city of New York, or, at ___________________ bank, at the option of the holder, the sum of ____________ dollars, with interest thereon at __ per centum per annum from the date, payable semiannually in like lawful money of the United States of America at the treasurer’s office or banks aforesaid, on the first day of ______________ and the first day of _____________ of each year (and in the case of coupon bonds) according to the tenor of the annexed coupons bearing the facsimile signature of the treasurer of the state of West Virginia, upon surrender of such coupons. This bond (in case of a coupon bond) may be exchanged for a registered bond of like tenor upon application to the treasurer of the state of West Virginia.
(Redemption provisions, if any, to be inserted here)

To secure the payment of the principal and interest of this bond, the state of West Virginia covenants and agrees with the holder as follows: (1) That this bond shall constitute a direct and general obligation of the state of West Virginia; (2) that the full faith and credit of the state is pledged to secure the payment of the principal and interest of this bond; (3) that an annual state tax shall be collected in an amount sufficient to pay as it may accrue the interest on this bond and the principal thereof; and (4) that such tax shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and principal of this bond becoming due and payable in such year are insufficient therefor.

This bond is hereby made exempt from any taxation by the state of West Virginia, or by any county, district, or municipal corporation thereof.

In testimony whereof, witness the manual or facsimile signature of the treasurer of the state of West Virginia,
and the manual or facsimile countersignature of the
auditor of the state, hereto affixed according to law,
dated the _____ day of ________________, one thousand
nine hundred______________, and the seal of the state of
West Virginia or a facsimile thereof.

Treasurer of the State of West Virginia
(SEAL)

Countersigned:

Auditor of the State of West Virginia

§4. Form of coupon.

The form of coupon shall be substantially as follows,
to wit:

STATE OF WEST VIRGINIA

Bond No. ___________ Coupon No. ___________

On the first day of ________________, 19___, the state
of West Virginia will pay to the bearer, in lawful money
of the United States of America, at the office of the
treasurer of the state, or, at ________________ bank
in the city of New York, or, at ________________, at the
option of the holder, the sum of dollars, the same being semiannual interest on Road Bond No. ____________

Treasurer of the State of West Virginia

The signature of the treasurer to such coupon shall be by his facsimile signature and the coupons shall be numbered in the order of their maturity, from number one consecutively. The bonds and coupons may be signed, as provided in this act, by the present treasurer and auditor, or by any of their respective successors in office, and the bonds signed by the persons now in the office may be sold by the governor or his successor in office without being signed by the successor in office of the present treasurer or auditor.

§5. Listing by auditor.

All coupons and registered bonds issued under this act shall be separately listed by the auditor of the state in books provided for the purpose, in each case giving the date, number, character and amount of obligations issued, and in case of registered bonds, the name and
§6. State road sinking fund sources used to pay bonds and interest; investment of remainder.

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

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

Such fund shall be applied by the treasurer of the state first to the payment of the semiannual interest on such bonds as it shall become due as herein provided. The remainder of the fund shall be turned over by the state treasurer to the state sinking fund com-
mission, whose duty it shall be to invest the same in obligations of the government of the United States, bonds of the state of West Virginia, or any political subdivision thereof: Provided, That bonds or other obligations so purchased by the state sinking fund commission shall mature so as to provide sufficient money to pay off all bonds herein provided to be issued as they become due; and the money so paid into the state road sinking fund under the provisions of this act shall be expended for the purpose of paying the interest and principal of the bonds hereby provided for as they severally become due and payable and for no other purpose except that the fund may be invested until needed, as herein provided.

§7. Covenants of state.

The state of West Virginia covenants and agrees with the holders of the bonds issued pursuant hereto as follows: (1) That such bonds shall constitute a direct and general obligation of the state of West Virginia; (2) that the full faith and credit of the state is hereby pledged to secure the payment of the principal and interest
§ 7. of such bonds; (3) that an annual state tax shall be collected in an amount sufficient to pay as it may accrue the interest on such bonds and the principal thereof; and (4) that such tax shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and principal of said bonds becoming due and payable in such year are insufficient therefor.

§8. Sale by governor; minimum price.

The governor shall sell the bonds herein authorized at such time or times as he may determine necessary to provide funds for the building and construction of state roads and highways, as herein provided, upon the recommendation of the West Virginia commissioner of highways, and after reviewing the program of the West Virginia department of highways and subject to the limitations contained in this act. All sales shall be at not less than par and accrued interest. All interest coupons becoming payable prior to the sale date shall be cancelled by the treasurer and rendered ineffective, before the 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
3 the state road fund and shall be used and appropri-
4 ated solely for the building and construction of state
5 roads and highways provided for by the state consti-
6 tution and the laws enacted thereunder. Except for
7 such sums necessary for current operating balances,
8 such account shall be invested and reinvested in short-
9 term obligations of the United States treasury: Provided,
10 That no such investment or reinvestment shall adversely
11 affect 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 certificates to be issued to the purchasers of such bonds to be held by them in lieu of permanent bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the permanent bonds.

§13. **State treasurer to be financial advisor; redemption of bonds.**
1. The state treasurer shall serve as financial advisor to 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 representative, shall serve as bond counsel and shall be responsible for the issuance of a final approving opinion regarding the legality of the sale of such bonds.

§15. **Approval and payment of all necessary expenses.**
1. All necessary expenses, including legal expenses approved by the attorney general, incurred in the execution of this act shall be paid out of state road fund on warrants of the auditor of the state drawn on the state treasurer.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect July 1, 1971.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor