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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972

ENROLLED

SENATE BILL NO. 74

(By Mr. HUBBARD, ORIGINAL SPONSOR)

PASSED MARCH 9 1972

In Effect 90 DAYS FROM Passage



MAR 29 11 37 PM '72
OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

74

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-29-72

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 74

(MR. HUBBARD, *original sponsor*)

[Passed March 9, 1972; in effect ninety days from passage.]

AN ACT 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-three, 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 neces-

sary 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:

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

1 Bonds of the state of West Virginia, under authority
2 of the Better Roads Amendment of 1964, of the par
3 value not to exceed twenty million dollars during the
4 fiscal year ending June thirty, one thousand nine hun-
5 dred seventy-three, are hereby authorized to be issued
6 and sold for the sole purpose of raising funds for the
7 building and construction of 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 denominations, at such time, bearing
11 such date or dates as the governor may determine,
12 based upon an examination of the West Virginia de-
13 partment of highways' yearly program which justifies
14 the issuance by the governor of said bonds, and shall
15 become due and payable serially, annually or semi-
16 annually, in such amounts and mature in such years as
17 the governor may determine: *Provided*, That such bonds
18 shall mature within and not exceeding twenty-five years
19 from their date: *Provided further*, That the governor
20 must offer said bonds for competitive bids from recog-
21 nized financial investment institutions before said bonds
22 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
8 shall make provisions for registering "payable to bearer"
9 bonds, and for each bond registered a fee of fifty cents,

10 shall likewise be charged by and paid to the state of
11 West Virginia, to the credit of the state road sinking
12 fund. All such bonds shall be payable at the office of
13 the treasurer of the state of West Virginia, or, at the
14 option of the holder, at a bank in the city of New York
15 to be designated by the governor, or, at the option
16 of the holder at such other bank or banks, within the state,
17 as may be designated or approved by the governor. The
18 bonds shall bear interest, payable semiannually, to bearer,
19 at the office of the treasurer of the state of West Virginia,
20 at the capitol of the state, or at the banks designated and
21 approved by the governor, upon presentation and surren-
22 der of interest coupons then due, in the case of coupon
23 bonds. For the payment of interest on registered bonds,
24 the treasurer of the state of West Virginia shall requisition
25 a warrant from the auditor of the state to be drawn on the
26 state treasurer, and shall mail such warrant to the regis-
27 tered owner at the address as shown by the record of regis-
28 tration. Both the principal and interest of the bonds shall
29 be made payable in lawful money of the United States
30 of America and the bonds shall be exempt from taxation
31 by the state of West Virginia, or by any county, dis-
32 trict, or municipality thereof, which facts shall appear
33 on the face of the bonds as part of the contract with
34 the 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 of
3 the treasurer thereof, under the great seal of the state or
4 a facsimile thereof, and countersigned by the manual or
5 facsimile signature of the auditor of the state: *Provided,*
6 That one of said signatures on said bonds shall be a man-
7 ual signature and said bonds shall be in the following form
8 or to the following effect, as nearly as may be, namely:

9 COUPON ROAD BOND

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

11 OF THE

12 STATE OF WEST VIRGINIA

13 \$..... No.

14 The state of West Virginia, under and by virtue of
 15 authority of an amendment to the constitution, which
 16 was proposed by House Joint Resolution No. 10, adopted
 17 the seventh day of March, one thousand nine hundred
 18 sixty-three, and was ratified by a vote of the people
 19 at the general election on the third day of November,
 20 one thousand nine hundred sixty-four, which is here-
 21 by made a part hereof as fully as if set forth at length
 22 herein, acknowledges itself to be indebted to and hereby
 23 promises to pay to the bearer hereof (in case of a coupon
 24 bond) or to _____ or assigns (the owner
 25 of record, in case of registered bonds) on the _____ day
 26 of _____, 19____, in lawful money of the
 27 United States of America at the office of the treasurer
 28 of the state of West Virginia at the capitol of said state,
 29 or, at _____ bank in the city of
 30 New York, or, at _____ bank, at the
 31 option of the holder, the sum of _____ dollars,
 32 with interest thereon at _____ per centum per annum
 33 from the date, payable semiannually in like lawful money
 34 of the United States of America at the treasurer's office
 35 or banks aforesaid, on the first day of _____ and
 36 the first day of _____ of each year (and in
 37 the case of coupon bonds) according to the tenor of
 38 the annexed coupons bearing the facsimile signature
 39 of the treasurer of the state of West Virginia, upon sur-
 40 render of such coupons. This bond (in case of a coupon
 41 bond) may be exchanged for a registered bond of like
 42 tenor upon application to the treasurer of the state of
 43 West Virginia.

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

45 To secure the payment of the principal and interest
 46 of this bond, the state of West Virginia covenants and
 47 agrees with the holder as follows: (1) That this bond
 48 shall constitute a direct and general obligation of the
 49 state of West Virginia; (2) that the full faith and credit
 50 of the state is pledged to secure the payment of the
 51 principal and interest of this bond; (3) that an annual
 52 state tax shall be collected in an amount sufficient to
 53 pay as it may accrue the interest on this bond and the
 54 principal thereof; and (4) that such tax shall be levied in

55 any year only to the extent that the moneys in the
56 state road fund irrevocably set aside and appropriated
57 for and applied to the payment of the interest on and
58 principal of this bond becoming due and payable in such
59 year are insufficient therefor.

60 This bond is hereby made exempt from any taxa-
61 tion by the state of West Virginia, or by any county,
62 district, or municipal corporation thereof.

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

70 _____
71 Treasurer of the State of West Virginia

72 (SEAL)

73 Countersigned:

74 _____

75 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____, the state
6 of West Virginia will pay to the bearer, in lawful money
7 of the United States of America, at the office of the
8 treasurer of the state, or, at _____ bank
9 in the city of New York, or, at _____, at the
10 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
19 signed, as provided in this act, by the present treasurer
20 and auditor, or by any of their respective successors
21 in office, and the bonds signed by the persons now in
22 the office may be sold by the governor or his successor
23 in office without being signed by the successor in office
24 of the 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
7 registered 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
3 the state from the state road fund for the purpose of
4 paying the interest on such bonds or paying off and
5 retiring the bonds, from transfer and registration fees
6 as herein provided, and from any other source what-
7 soever which is made liable by law for the payment
8 of the principal 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 money 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
15 on such bonds as it shall become due as herein pro-
16 vided. The remainder of the fund shall be turned over
17 by the state treasurer to the state sinking fund com-
18 mission, whose duty it shall be to invest the same in
19 obligations of the government of the United States,
20 bonds of the state of West Virginia, or any political
21 subdivision thereof: *Provided*, That bonds or other obli-

22 gations so purchased by the state sinking fund commis-
23 sion shall mature so as to provide sufficient money to
24 pay off all bonds herein provided to be issued as they
25 become due; and the money so paid into the state road
26 sinking fund under the provisions of this act shall be
27 expended for the purpose of paying the interest and
28 principal of the bonds hereby provided for as they
29 severally become due and payable and for no other
30 purpose except that the fund may be invested until
31 needed, as herein provided.

§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 and
4 general obligation of the state of West Virginia; (2) that
5 the full faith and credit of the state is hereby pledged
6 to secure the payment of the principal and interest
7 of such bonds; (3) that an annual state tax shall be
8 collected in an amount sufficient to pay as it may accrue
9 the interest on such bonds and the principal thereof;
10 and (4) that such tax shall be levied in any year only
11 to the extent that the moneys in the state road fund
12 irrevocably set aside and appropriated for and applied
13 to the payment of the interest on and principal of said
14 bonds becoming due and payable in such year are in-
15 sufficient 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
3 to provide funds for the building and construction of
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 becom-
10 ing payable prior to the sale date shall be cancelled
11 by the treasurer and rendered ineffective, before the de-
12 livery 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 appropriated
4 solely for the building and construction of state roads
5 and highways provided for by the state constitution and
6 the laws enacted thereunder. Except for such sums nec-
7 essary for current operating balances, such accounts shall
8 be invested and reinvested in short-term obligations of
9 the United States treasury: *Provided*, That no such in-
10 vestment or reinvestment shall adversely affect the cur-
11 rent 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 completely
7 as the permanent bonds.

§13. State treasurer to be financial advisor.

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 representa-
tive 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 re-
3 sponsible 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 execu-
3 tion of this act shall be paid out of state road fund on
4 warrants 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. Beall
Chairman Senate Committee

Phyllis J. Rutledge
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Howard Robinson
Clerk of the Senate

C. G. Blankenship
Clerk of the House of Delegates

E. Mrs. McCourt
President of the Senate

Lewis J. McMane
Speaker House of Delegates

The within approved this the 17th
March
day of _____, 1972.

Arch A. Moore Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/16/72

Time 2:10 p.m.