

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1973



ENROLLED

HOUSE BILL No. 1226

(By Mr. McMinn and Mr. Serbert)



PASSED April 4, 1973

In Effect From Passage



C 641

FILED IN THE OFFICE
EDGAR F. BRISHELL III
SECRETARY OF STATE
THIS DATE 4-11-73

1226

ENROLLED

House Bill No. 1226

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

[Passed April 4, 1973; in effect 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 the thirtieth day of June, one thousand nine hundred seventy-four, 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 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 of the
2 Better Roads Amendment of 1964, of the par value not to
3 exceed twenty million dollars during the fiscal year ending
4 the thirtieth day of June, one thousand nine hundred seventy-
5 four, are hereby authorized to be issued and sold for the
6 sole purpose of raising funds for the building and construc-
7 tion of state roads and highways as provided for by the con-
8 stitution and the laws enacted thereunder. Such bonds may
9 be issued by the governor in such denominations, at such
10 time, bearing such date or dates as the governor may deter-
11 mine, based upon an examination of the West Virginia
12 department of highways' yearly program which justifies the
13 issuance by the governor of said bonds, and shall become
14 due and payable serially, annually or semiannually, in such
15 amounts and mature in such years as the governor may
16 determine: *Provided*, That such bonds shall mature within
17 and not exceeding twenty-five years from their date: *Provided*,
18 *however*, That the governor must offer said bonds for com-
19 petitive bids from recognized financial investment institutions
20 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 to ar-

2 range for the transfer of registered bonds and for each such
3 transfer a fee of fifty cents shall be charged by and paid to the
4 state of West Virginia, to the credit of the state road sinking
5 fund. Bonds taken in exchange shall be cancelled by the audi-
6 tor and treasurer and be carefully preserved by the treasurer.
7 The treasurer shall make provisions for registering "payable
8 to bearer" bonds, and for each bond registered a fee of fifty
9 cents, shall likewise be charged by and paid to the state of
10 West Virginia, to the credit of the state road sinking fund. All
11 such bonds shall be payable at the office of the treasurer of
12 the state of West Virginia, or, at the option of the holder, at a
13 bank in the city of New York to be designated by the governor,
14 or, at the option of the holder at such other bank or banks,
15 within the state as may be designated or approved by the gov-
16 ernor. The bonds shall bear interest, payable semiannually, to
17 bearer, at the office of the treasurer of the state of West Vir-
18 ginia, at the capitol of the state, or at the banks designated
19 and approved by the governor, upon presentation and sur-
20 render of interest coupons then due, in the case of coupon
21 bonds. For the payment of interest on registered bonds, the
22 treasurer of the state of West Virginia shall requisition a war-
23 rant from the auditor of the state to be drawn on the state
24 treasurer, and shall mail such warrant to the registered owner
25 at the address as shown by the record of registration. Both the
26 principal and interest of the bonds shall be made payable in
27 lawful money of the United States of America and the bonds
28 shall be exempt from taxation by the state of West Virginia, or
29 by any county, district or municipality thereof, which facts
30 shall appear on the face of the bonds as part of the contract
31 with the holder thereof.

§3. Form of bond.

1 The bonds shall be executed on behalf of the state of West
2 Virginia, by the manual or facsimile signature of the treasurer
3 thereof, under the great seal of the state or a facsimile thereof,
4 and countersigned by the manual or facsimile signature of the
5 auditor of the state: *Provided*, That one of said signatures on
6 said bonds shall be a manual signature and said bonds shall be
7 in the following form or to the following effect, as nearly as
8 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 authority
15 of an amendment to the constitution, which was proposed by
16 House Joint Resolution No. 10, adopted the seventh day of
17 March, one thousand nine hundred sixty-three, and was
18 ratified by a vote of the people at the general election on the
19 third day of November, one thousand nine hundred sixty-four,
20 which is hereby made a part hereof as fully as if set forth
21 at length herein, acknowledges itself to be indebted to and
22 hereby promises to pay to the bearer hereof (in case of a
23 coupon bond) or to or assigns (the
24 owner of record, in case of registered bonds) on the
25 day of, 19....., in lawful money of
26 the United States of America at the office of the treasurer of
27 the state of West Virginia at the capitol of said state, or, at
28 bank in the city of New York, or, at
29 bank, at the option of the holder, the
30 sum of dollars, with interest thereon at
31 percent a year from the date, payable semiannually in
32 like lawful money of the United States of America at the
33 treasurer's office or banks aforesaid, on the first day of
34 and the first day of
35 of each year (and in the case of coupon bonds) according to
36 the tenor of the annexed coupons bearing the facsimile signa-
37 ture of the treasurer of the state of West Virginia, upon
38 surrender of such coupons. This bond (in case of a coupon
39 bond) may be exchanged for a registered bond of like tenor
40 upon application to the treasurer of the state of West Virginia.
41 (Redemption provisions, if any, to be inserted here)

42 To secure the payment of the principal and interest of this
43 bond, the state of West Virginia covenants and agrees with the
44 holder as follows: (1) That this bond shall constitute a direct
45 and general obligation of the state of West Virginia; (2) that
46 the full faith and credit of the state is pledged to secure the
47 payment of the principal and interest of this bond; (3) that
48 an annual state tax shall be collected in an amount sufficient to

49 pay as it may accrue the interest on this bond and the principal
 50 thereof; and (4) that such tax shall be levied in any year only
 51 to the extent that the moneys in the state road fund irre-
 52 vocably set aside and appropriated for and applied to the pay-
 53 ment of the interest on and principal of this bond becoming
 54 due and payable in such year are insufficient therefor.

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

58 In testimony whereof, witness the manual or facsimile
 59 signature of the treasurer of the state of West Virginia, and the
 60 manual or facsimile countersignature of the auditor of the state,
 61 hereto affixed according to law, dated the _____ day of
 62 _____, one thousand nine hundred _____,
 63 and the seal of the state of West Virginia or a facsimile
 64 thereof.

65 _____
 66 Treasurer of the State of West Virginia

67 (SEAL)

68 Countersigned:

69 _____
 70 Auditor of the State of West Virginia

§4. Form of coupon.

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

2 STATE OF WEST VIRGINIA

3 Bond No. _____ Coupon No. _____

4 On the first day of _____, 19 _____, the state of
 5 West Virginia will pay to the bearer, in lawful money of the
 6 United States of America, at the office of the treasurer of the
 7 state, or, at _____ bank in the city of New York,
 8 or, at _____, at the option of the holder,
 9 the sum of _____ dollars, the same being
 10 semiannual interest on Road Bond No. _____.

11 _____
 12 Treasurer of the State of West Virginia

13 The signature of the treasurer to such coupon shall be by
 14 his facsimile signature and the coupons shall be numbered in
 15 the order of their maturity, from number one consecutively.

16 The bonds and coupons may be signed, as provided in this
17 act, by the present treasurer and auditor, or by any of their
18 respective successors in office, and the bonds signed by the
19 persons now in the office may be sold by the governor or his
20 successor in office without being signed by the successor in
21 office of the present treasurer or auditor.

§5. Listing by auditor.

1 All coupons and registered bonds issued under this act shall
2 be separately listed by the auditor of the state in books pro-
3 vided for the purpose, in each case giving the date, number,
4 character and amount of obligations issued, and in case of
5 registered bonds, the name and post-office address of the per-
6 son, firm or corporation 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 all money
2 from any and all appropriations made by the state from the
3 state road fund for the purpose of paying the interest on such
4 bonds or paying off and retiring the bonds, from transfer and
5 registration fees as herein provided, and from any other source
6 whatsoever which is made liable by law for the payment of
7 the principal of such bonds or the interest thereon.

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

12 Such fund shall be applied by the treasurer of the state first
13 to the payment of the semiannual interest on such bonds as it
14 shall become due as herein provided. The remainder of the
15 fund shall be turned over by the state treasurer to the state
16 sinking fund commission, whose duty it shall be to invest the
17 same in obligations of the government of the United States,
18 bonds of the state of West Virginia, or any political subdivision
19 thereof: *Provided*, That bonds or other obligations so purchas-
20 ed by the state sinking fund commission shall mature so as to
21 provide sufficient money to pay off all bonds herein provided
22 to be issued as they become due; and the money so paid into
23 the state road sinking fund under the provisions of this act

24 shall be expended for the purpose of paying the interest and
25 principal of the bonds hereby provided for as they severally
26 become due and payable and for no other purpose except that
27 the fund may be invested until needed, as herein provided.

§7. Covenants of state.

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

§8. Sale by governor; minimum price.

1 The governor shall sell the bonds herein authorized at such
2 time or times as he may determine necessary to provide funds
3 for the building and construction of state roads and high-
4 ways, as herein provided, upon the recommendation of the
5 West Virginia commissioner of highways, and after reviewing
6 the program of the West Virginia department of highways
7 and subject to the limitations contained in this act. All sales
8 shall be at not less than par and accrued interest. All interest
9 coupons becoming payable prior to the sale date shall be
10 cancelled by the treasurer and rendered ineffective, before
11 the delivery of the bonds so sold.

**§9. Proceeds paid into separate account in state road fund; ex-
penditures.**

1 The proceeds of all sales of bonds herein authorized shall
2 be paid into a separate and distinct account in the state road
3 fund and shall be used and appropriated solely for the
4 building and construction of state roads and highways pro-
5 vided for by the state constitution and the laws enacted

6 thereunder. Except for such sums necessary for current
7 operating balances, such accounts shall be invested and re-
8 invested in short-term obligations of the United States treasury:
9 *Provided*, That no such investment or reinvestment shall
10 adversely affect the current operating balances of such ac-
11 count.

§10. Plates, etc., property of state.

1 The plates, casts, dies or other forms from which the bonds
2 authorized by this act are produced or made shall be the
3 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 bonds
2 issued pursuant to the provisions of this act.

§12. Interim certificates.

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

§13. State treasurer to be financial advisor.

1 The state treasurer shall serve as financial advisor to the
2 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 representa-
2 tive, shall serve as bond counsel and shall be responsible for
3 the issuance of a final approving opinion regarding the
4 legality of the sale of such bonds.

§15. Approval and payment of all necessary expenses.

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

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

H. Herbert Darby
Chairman Senate Committee

Clarence C. Chastain Jr.
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard E. Gamm
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

H. R. Brotherton
President of the Senate

Lewis F. McManis
Speaker House of Delegates

The within approved this the 11th
April, 1973.
day of _____

Arch A. Mangif.
Governor



PRESENTED TO THE
GOVERNOR

Date 4/10/73

Time 10:35 a.m.