

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1973



ENROLLED

HOUSE BILL No. 1227

(By Mr. McMann and Mr. Schubert)



PASSED April 4, 1973

In Effect From Passage



C 641

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

1227

ENROLLED

House Bill No. 1227

(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 Roads Development Amendment of 1968, in the 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 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 of the
2 Roads Development Amendment of 1968, of the par value not
3 to 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 sole
6 purpose of raising funds for the building and construction of
7 free state roads and highways as provided for by the con-
8 stitution and the laws enacted thereunder. Such bonds may be
9 issued by the governor in such amounts, in coupons or regis-
10 tered form, in such denominations, at such time, bearing such
11 date or dates as the governor may determine, based upon an
12 examination of the West Virginia department of highways'
13 yearly program which justifies the issuance by the governor
14 of said bonds, and shall become due and payable serially, an-
15 nually or semiannually, in such amounts and mature in such
16 years as the governor may determine: *Provided*, That such
17 bonds shall mature within and not exceeding twenty-five years
18 from their date: *Provided, however*, That the governor must
19 offer said bonds for competitive bids from recognized financial
20 investment 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 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
4 the state of West Virginia, to the credit of the state road sink-
5 ing fund. Bonds taken in exchange shall be cancelled by the
6 auditor and treasurer and be carefully preserved by the trea-
7 surer. The treasurer shall make provisions for registering "pay-
8 able to bearer" bond and for each bond registered a fee of
9 fifty cents shall likewise be charged by and paid to the state
10 of West Virginia, to the credit of the state road sinking fund.
11 All such bonds shall be payable at the office of the treasurer
12 of the state of West Virginia, or, at the option of the holder
13 at a bank in the city of New York to be designated by the
14 governor, or, at the option of the holder at such other bank or
15 banks, within the state, as may be designated or approved by
16 the governor. The bonds shall bear interest, payable semi-
17 annually, to bearer, at the office of the treasurer of the state
18 of West Virginia, at the capitol of the state, or at the banks
19 designated and approved by the governor, upon presentation
20 and surrender of interest coupons, then due, in the case of
21 coupon bonds. For the payment of interest on registered bonds,
22 the treasurer of the state of West Virginia shall requisition a
23 warrant 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
26 the principal and interest of the bonds shall be 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 bond 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 Senate Joint Resolution No. 2, adopted the eighth day of
17 February, one thousand nine hundred sixty-eight, and was
18 ratified by a vote of the people at the general election on the
19 fifth day of November, one thousand nine hundred sixty-eight,
20 which is hereby made a part hereof as fully as if set forth at
21 length herein, acknowledges itself to be indebted to and hereby
22 promises to pay to the bearer hereof (in case of a coupon
23 bond) or to _____
24 or assigns (the owner of record, in case of registered bonds)
25 on the _____ day of _____,
26 19_____, in lawful money of the United States of America
27 at the office of the treasurer of the state of West Virginia
28 at the capitol of said state, or, at _____
29 bank in the city of New York, or, at _____
30 bank, at the option of the holder, the sum of _____
31 dollars, with interest thereon at _____ percent a
32 year from the date, payable semiannually in like lawful money
33 of the United States of America at the treasurer's office or
34 banks aforesaid, on the first day of _____
35 and the first day of _____ of each year (and in
36 the case of coupon bonds) according to the tenor of the an-
37 nexed coupons bearing the facsimile signature of the treasurer
38 of the state of West Virginia, upon surrender of such coupons.
39 This bond (in case of a coupon bond) may be exchanged
40 for a registered bond of like tenor upon application to the
41 treasurer of the state of West Virginia.

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 an

48 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 irrevoc-
 52 ably set aside and appropriated for and applied to the payment
 53 of the interest on and principal of this bond becoming due
 54 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
 60 the manual or facsimile countersignature of the auditor of
 61 the state, hereto affixed according to law, dated the _____
 62 day of _____, one thousand nine
 63 hundred _____, and the seal of the state
 64 of West Virginia or a facsimile 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 act,
17 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
2 shall be separately listed by the auditor of the state in books
3 provided for the purpose, in each case giving the date, num-
4 ber, character and amount of obligations issued, and in case
5 of registered bonds, the name and post-office address of the
6 person, 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
2 money from any and all appropriations made by the state from
3 the state road fund for the purpose of paying the interest on
4 such bonds or paying off and retiring the bonds, from transfer
5 and registration fees as herein provided, and from any other
6 source whatsoever which is made liable by law for the payment
7 of 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 moneys 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
13 first to the payment of the semiannual interest on such bonds
14 as it shall become due as herein provided. The remainder of
15 the 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 subdivi-
19 sion thereof: *Provided*, That the bonds or other obligations so
20 purchased by the state sinking fund commission shall mature
21 so as to provide sufficient money to pay off all bonds herein
22 provided to be issued as they become due; and the moneys so

23 paid into the state road sinking fund under the provisions of
24 this act shall be expended for the purpose of paying the inter-
25 est and principal of the bonds hereby provided for as they
26 severally become due and payable and for no other purpose
27 except that the fund may be invested until needed, as herein
28 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) That
3 such bonds shall constitute a direct and general obligation of
4 the state of West Virginia; (2) that the full faith and credit
5 of the state is hereby pledged to secure the payment of the
6 principal and interest of such bonds; (3) that an annual state
7 tax shall be collected in an amount sufficient to pay as it may
8 accrue the interest on such bonds and the principal thereof;
9 and (4) that such tax shall be levied in any year only to the
10 extent that the moneys in the state road fund irrevocably set
11 aside and appropriated for and applied to the payment of the
12 interest on and principal of said bonds becoming due and pay-
13 able in such year are insufficient therefor.

§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 free 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 and
7 subject to the limitations contained in this act. All sales shall
8 be at not less than par and accrued interest. All interest cou-
9 pons becoming payable prior to the sale date shall be can-
10 celled by the treasurer and rendered ineffective, before the
11 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 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 building
4 and construction of free state roads and highways provided for

5 by the state constitution and the laws enacted thereunder.
6 Except for such sums necessary for current operating balances,
7 such account shall be invested and reinvested in short-term
8 obligations of the United States treasury: *Provided*, That no
9 such investment or reinvestment shall adversely affect the
10 current operating balances, of such account.

§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 represen-
2 tative, shall serve as bond counsel and shall be responsible for
3 the issuance of a final approving opinion regarding the legality
4 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. Merril Derby
Chairman Senate Committee

Robert C. Thurston
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard E. Lamm
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

J. I. Best
President of the Senate

Lewis T. McMane
Speaker House of Delegates

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

Arch A. Shaefer, Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 4/10/73

Time 10:35 a.m.