

WEST VIRGINIA LEGISLATURE
SECOND EXTRAORDINARY SESSION, 1974

— ● —

ENROLLED

HOUSE BILL No. 102

(By Mr. Seibert)

— ● —

PASSED July 3, 1974

In Effect from Passage



C 641

102

FILED IN THE OFFICE
EDGAR F. HANCOCK JR.
SECRETARY OF STATE
THIS DATE 7/19/74

ENROLLED

H. B. 102

(By MR. SEIBERT)

[Passed July 3, 1974; 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 Highways Amendment of 1973, in a total amount not to exceed one hundred fifty million dollars and in several issuances, each in an amount not to exceed fifty million dollars, and with a period of one hundred eighty days to elapse between the first and second issuances and between each and every issuance thereafter, for the sole purpose of raising funds for bridge replacement and improvement program, completion of the Appalachian highway system, upgrading sections of trunkline and feeder systems, upgrading West Virginia State Route 2, upgrading state and local service roads, and the construction, reconstruction, improving and upgrading of U. S. Route 52 between Huntington and Bluefield, West Virginia, 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 fund; providing for the disposition and investment of the state road 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 within the state road fund and providing that said account shall contain six (6) subaccounts, their purposes and the percentage amount of the total proceeds of each bond sale to be deposited therein and for expenditures from said account; providing for annual accountability status report; 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; purposes and percentage amounts; when may issue.

1 Bonds of the state of West Virginia, under authority of the
2 Better Highways Amendment of 1973, of the par value not
3 to exceed one hundred fifty million dollars are hereby
4 authorized to be issued and sold for the sole purpose of raising
5 funds for the building, construction, reconstruction, improv-
6 ing, upgrading and completion of state roads and highways and
7 for bridge replacement and improvement as provided for by the
8 constitution and the laws enacted thereunder. The total pro-
9 ceeds of each bond sale shall be deposited in the manner here-
10 inafter provided for in this act and shall be earmarked, desig-
11 nated and used for the following purposes and in the following
12 percentage amounts:

13 (1) Twenty-four (24%) percent for bridge replacement and
14 improvement program;

15 (2) Twenty-six (26%) percent for completion of the Appala-
16 chian highway system;

17 (3) Ten (10%) percent for upgrading sections of trunkline
18 and feeder systems;

19 (4) Ten (10%) percent for upgrading West Virginia State
20 Route 2;

21 (5) Twenty (20%) percent for upgrading state and local
22 service roads;

23 (6) Ten (10%) percent for construction, reconstruction, im-
24 proving and upgrading of U. S. Route 52 between Huntington
25 and Bluefield, West Virginia.

26 Such bonds may be issued by the governor in such amounts, in
27 coupon or registered form, in such denominations, at such
28 time, bearing such date or dates, as the governor may deter-
29 mine, based upon an examination of the West Virginia depart-
30 ment of highways' yearly program which justifies the issuance
31 by the governor of said bonds, and shall become due and pay-
32 able serially, annually or semiannually, in such amounts and
33 mature in such years as the governor may determine: *Provided*,
34 That such bonds be sold in increments not to exceed fifty mil-
35 lion dollars and with a period of one hundred eighty days to
36 elapse between the first and second issuances and between each
37 and every issuance thereafter: *Provided, however*, That such
38 bonds shall mature within and not exceeding twenty-five years
39 from their date: *Provided further*, That the governor must offer
40 said bonds for competitive bids from recognized financial in-
41 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 to
2 arrange for the transfer of registered bonds and for each such
3 transfer a fee of one dollar shall be charged by and paid to the
4 state of West Virginia, to the credit of the state road
5 fund. Bonds taken in exchange shall be canceled by the auditor
6 and treasurer and be carefully preserved by the treasurer. The
7 treasurer shall make provisions for registering "payable to
8 bearer" bonds, and for each bond registered a fee of one dollar
9 shall likewise be charged by and paid to the state of West
10 Virginia, to the credit of the state road fund. All such
11 bonds shall be payable at the office of the treasurer of the
12 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 gover-

14 nor, 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 the check 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 shall
30 appear on the face of the bonds as part of the contract with the
31 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 Senate Joint Resolution No. 17, adopted the thirteenth day of
17 April, one thousand nine hundred seventy-three, and was rati-
18 fied by a vote of the people at the special election on the sixth

19 day of November, one thousand nine hundred seventy-three,
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 here-
22 by promises to pay to the bearer hereof (in case of a coupon
23 bond) or to _____ or assigns (the owner of record, in
24 case of registered bonds) on the _____ day of _____,
25 19_____, in lawful money of the United States of America at
26 the office of the treasurer of the state of West Virginia at the
27 capitol of said state, or, at _____ bank in the city of
28 New York, or, at _____ bank, at the option of the
29 holder, the sum of _____ dollars, with interest thereon
30 at _____ percent a year from the date, payable semian-
31 nually in like lawful money of the United States of America
32 at the treasurer's office or banks aforesaid, on the first day of
33 _____ and the first day of _____ of each
34 year (and in the case of coupon bonds) according to the tenor
35 of the annexed coupons bearing the facsimile signature of the
36 treasurer of the state of West Virginia, upon surrender of
37 such coupons. This bond (in case of a coupon bond) may be
38 exchanged for a registered bond of like tenor upon application
39 to the treasurer of the state of West Virginia.

40 (Redemption provisions, if any, to be inserted here).

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

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

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

63 _____
 64 Treasurer of the State of West Virginia

65 (SEAL)

66 Countersigned:

67 _____
 68 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
 5 of West Virginia will pay to the bearer, in lawful money of
 6 the United States of America, at the office of the treasurer
 7 of the state, or, at _____ bank in the
 8 city of New York, or, at _____ bank, at the
 9 option of the holder, the sum of _____ dollars,
 10 the same being semiannual interest on Road Bond No.
 11 _____.

12 _____
 13 Treasurer of the State of West Virginia

14 The signature of the treasurer to such coupon shall be
 15 by his facsimile signature and the coupons shall be numbered
 16 in the order of their maturity, from number one consecutively.
 17 The bonds and coupons may be signed, as provided in this
 18 act, by the present treasurer and auditor, or by any of their
 19 respective successors in office, and the bonds signed by the
 20 persons now in the office may be sold by the governor or his
 21 successor in office without being signed by the successor in
 22 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, number,
4 character and amount of obligations issued, and in case of
5 registered bonds, the name and post-office address of the
6 person, firm or corporation registered as the owner thereof.

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

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

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

13 Such fund shall be applied by the treasurer of the state
14 first to the payment of the semiannual interest on such bonds
15 as it shall become due as herein provided. The remainder
16 of the fund shall be invested by the state treasurer in obligations of the government of the United States, bonds of the
17 state of West Virginia, or any political subdivision thereof:
18 *Provided*, That bonds or other obligations so purchased by the
19 state treasurer shall mature so as to provide sufficient money to
20 pay off all bonds herein provided to be issued as they become
21 due; and the money so paid into the state road fund under the
22 provisions of this act shall be expended for the purpose of
23 paying the interest and principal of the bonds hereby provided
24 for as they severally become due and payable.

§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 of
6 the principal and interest of such bonds; (3) that an annual
7 state tax shall be collected in an amount sufficient to pay as it
8 may accrue the interest on such bonds and the principal there-
9 of; and (4) that such tax shall be levied in any year only to
10 the extent that the moneys in the state road fund irrevocably
11 set aside and appropriated for and applied to the payment of
12 the interest on and principal of said bonds becoming due and
13 payable 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, within the specified periods, as he may deter-
3 mine necessary to provide funds for the building, construction,
4 reconstruction, improving, upgrading and completion of state
5 roads and highways, and for bridge replacement and improve-
6 ment as herein provided, upon the recommendation of the
7 West Virginia commissioner of highways, and after reviewing
8 the program of the West Virginia department of highways and
9 subject to the limitations contained in this act. All sales shall
10 be at not less than par and accrued interest. All interest cou-
11 pons becoming payable prior to the sale date shall be cancelled
12 by the treasurer and rendered ineffective before the delivery
13 of the bonds so sold.

§9. Proceeds paid into a separate and distinct account within the state road fund; subaccounts and restriction on transfer of funds; expenditures; investment; annual accountability status report.

1 The proceeds of the sale of each issue of bonds herein autho-
2 rized shall be paid into a separate and distinct account within
3 the state road fund, and in order to control expenditures, said
4 account shall contain six subaccounts to be designated as fol-
5 lows: Bridge replacement and improvement subaccount; Ap-
6 palachian highway system completion subaccount; Trunkline
7 and feeder system upgrading subaccount; State Route 2 up-
8 grading subaccount; State and local service roads upgrading
9 subaccount; Construction, reconstruction, improving, and up-

10 grading of U. S. Route 52 between Huntington and Bluefield
11 subaccount.

12 It is the express intent of the Legislature that when the pro-
13 ceeds of each issue of bonds sold have been deposited, as
14 aforesaid, and distributed to each subaccount in the manner
15 provided for in section one of this act, there shall be no trans-
16 fer of funds thereafter among the six subaccounts. The proceeds
17 of each sale of bonds shall be allocated to the subaccounts, as
18 designated above, and used and appropriated solely for ex-
19 penditure in the manner as hereinbefore directed.

20 Except for such sums necessary for current operating bal-
21 ances, any excess cash in any one or more of said subaccounts
22 may be combined and shall be invested by the state treasurer
23 in obligations of the government of the United States, bonds of
24 the state of West Virginia, or any political subdivision thereof:
25 *Provided*, That no such investment may adversely offset the
26 current operating balances of such fund: *Provided, however*,
27 That all interest accruing from such investment shall be paid
28 into the state road fund for debt service on the bonds issued.

29 On or before the thirty-first day of January of each year, the
30 commissioner of the department of highways shall submit to
31 the legislative auditor an accountability status report of all
32 moneys received or expended within the state road fund, and
33 the six separate subaccounts herein provided and any other
34 information required to fully account in respect to the handling
35 of bonds issued and moneys expended under the authority of
36 the "Better Highways Amendment of 1973." No moneys shall
37 be expended by the commissioner other than as authorized in
38 said amendment.

§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
2 bonds issued pursuant to the provisions of this act.

§12. Interim certificates.

1 The governor may authorize the issuance of interim certifi-
2 cates to be issued to the purchasers of such bonds to be held
3 by them in lieu of permanent bonds, for a period not to exceed
4 eighteen months. When interim certificates are so issued, they
5 shall become full and legal obligations of the state of West
6 Virginia under all of the provisions of this act just as fully
7 and completely 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 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
3 for 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
3 act shall be paid out of the state road fund on warrants of
4 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.

H. Daniel Darby
Chairman Senate Committee

Clarence C. Christian Jr.
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard T. Watson
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. I. Bratherton Jr.
President of the Senate

Lewis R. M. Mann
Speaker House of Delegates

The within approved this the 16th
day of July, 1974.

Arthur H. Shaffer Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 7/12/74

Time 11:05 a.m.