

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974



ENROLLED

Committee Substitute for

SENATE BILL NO. 371

(By Mr. *Nelson & Mr. Suman*)



PASSED March 9 1974

In Effect ninety days from Passage



FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE

THIS DATE 3-27-74

172

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 371

(By MR. NELSON and MR. SUSMAN, *original sponsors*)

[Passed March 9, 1974; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two and three, article twelve-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to revenue bonds for Marshall University capital improvements; increasing maximum amount of bonds authorized from five million seven hundred thousand dollars; and providing for acquiring land and to improve and add parking, educational and athletic facilities.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, article twelve-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

§18-12A-1. Authority of board of regents to issue revenue bonds for certain capital improvements.

1 The West Virginia board of regents shall have authority,
2 as provided in this article, to issue revenue bonds of the
3 state, not to exceed eight million five hundred thousand
4 dollars in principal amount thereof, which shall be in
5 addition to the revenue bonds heretofore authorized pur-
6 suant to this article, to finance the cost of providing a
7 new classroom and office building, an addition to the li-

8 brary, renovation of administration building, additional
9 land for a new student center building for Marshall Uni-
10 versity; and to acquire land and to improve and add
11 parking, educational and athletic facilities. The principal
12 of and interest on such bonds shall be payable solely
13 from the special nonrevolving fund herein provided for
14 such payment. The costs of any such building or buildings
15 or improvements shall include the cost of acquisition of
16 land, the construction and equipment of any such build-
17 ing or buildings, and the provision of roads, utilities and
18 other services necessary, appurtenant or incidental to such
19 building or buildings; and shall also include all other
20 charges or expenses necessary, appurtenant or incidental
21 to the construction, financing and placing in operation
22 of any such building or buildings.

**§18-12A-2. Creation of special university capital improve-
ments fund; revenues payable into special fund;
authority of board of regents to pledge revenues
to sinking and reserve funds.**

1 There is hereby created in the state treasury a special
2 nonrevolving Marshall University capital improvements
3 fund. On and after the first day of July, one thousand
4 nine hundred sixty-three, or on and after the date of the
5 final payment of all principal of and interest on the rev-
6 enue bonds heretofore issued pursuant to this article,
7 or the making of adequate provision for the payment of
8 all principal of and interest on said revenue bonds, which-
9 ever is later, there shall be paid into such special fund
10 all fees collected under the provisions of section one,
11 article twenty-four, chapter eighteen of this code, from
12 students at Marshall University, except such fees as are
13 required by that section to be paid into other special
14 funds.

15 The board of regents shall have authority to pledge all
16 or such part of the revenue paid into the special Marshall
17 University capital improvements fund as may be needed
18 to meet the requirements of the sinking fund established
19 in connection with any revenue bond issue authorized by
20 this article, including a reserve fund for the payment of
21 the principal of and interest on such revenue bond issue

22 when other moneys in the sinking fund are insufficient
23 therefor; and may provide in the resolution authorizing
24 any issue of such bonds, and in any trust agreement made
25 in connection therewith, for such priorities on the rev-
26 enues paid into the special fund as may be necessary for
27 the protection of the prior rights of the holders of bonds
28 issued at different times under the provisions of this
29 article. The board of regents shall also have authority
30 to use all or any part of the revenue paid into the special
31 Marshall University capital improvements fund for the
32 payment of all or any part of the cost of providing said
33 classroom and office building, addition to the library,
34 renovation of administration building and additional land
35 for a new student center building for Marshall University
36 and, to acquire land and to improve and add parking,
37 educational and athletic facilities: *Provided*, That in the
38 event all or any part of such revenue is so used and ap-
39 plied, the amount of revenue bonds which the board of
40 regents may issue pursuant to this article shall be cor-
41 respondingly reduced so that the total amount expended
42 pursuant to this article for the payment of the cost of
43 providing said classroom and office building, addition to
44 the library, renovation of administration building and
45 additional land for a new student center building for
46 Marshall University and, to acquire land and to improve
47 and add parking, educational and athletic facilities, shall
48 not exceed the total amount of bonds authorized herein
49 exclusive of any appropriations, grants, gifts, or contri-
50 butions therefor.

51 If any balance shall remain in the special Marshall
52 University capital improvements funds after the board
53 has issued the maximum amount of bonds authorized by
54 this article, and after the requirements of all sinking
55 funds and reserve funds established in connection with
56 the issue of such bonds have been satisfied in each year
57 as provided in the resolution or trust agreement author-
58 izing the issuance of such bonds, such balance shall be
59 used solely for the redemption of any of the outstanding
60 bonds issued hereunder which by their terms are then
61 redeemable, or for the purchase of bonds at the market
62 price, but at not exceeding the price, if any, at which such

63 bonds shall be redeemable on the next ensuing date upon
64 which such bonds are redeemable prior to maturity, and
65 all bonds redeemed or purchased shall forthwith be can-
66 celled and shall not again be issued. Whenever all out-
67 standing bonds issued under this article shall have been
68 paid, the special Marshall University capital improve-
69 ments fund shall cease to exist and any balance then re-
70 maining in such fund shall be transferred to the general
71 revenue fund of the state. Thereafter all fees formerly
72 paid into such special fund shall be paid into the general
73 revenue fund of the state.

§18-12A-3. Issuance of revenue bonds.

1 The issuance of bonds under the provisions of this arti-
2 cle shall be authorized by a resolution of the board of
3 regents, which resolution shall recite an estimate by the
4 board of the cost of the proposed building or buildings,
5 improvements and land; and shall provide for the issu-
6 ance of bonds in an amount sufficient, when sold as here-
7 inafter provided, to provide moneys sufficient to pay such
8 cost, less the amount of revenue paid into the special
9 Marshall University capital improvements fund which is
10 used to pay any part of the cost of providing such class-
11 room and office building, addition to the library, renova-
12 tion of administration building and additional land for
13 a new student center building for Marshall University
14 and, to acquire land and to improve and add parking,
15 educational and athletic facilities, as authorized by sec-
16 tion two of this article and exclusive of the amount of
17 any other funds available for the construction or acqui-
18 sition of the building or buildings, improvements and land
19 from any appropriation, grant, gift or contribution there-
20 for. Such resolution shall prescribe the rights and duties
21 of the bondholders and the board, and for such purpose
22 may prescribe the form of the trust agreement herein-
23 after referred to. The bonds shall be of such series, bear
24 such date or dates, mature at such time or times not ex-
25 ceeding thirty years from their respective dates, bear in-
26 terest at such rates or rates, not exceeding seven per
27 centum per annum, payable semiannually; be in such de-
28 nominations; be in such form, either coupon or fully regis-

29 tered without coupons, carrying such registration ex-
30 changeability and interchangeability privileges; be pay-
31 able in such medium of payment and at such place or
32 places; be subject to such terms of redemption at such
33 prices not exceeding one hundred five percent of the prin-
34 cipal amount thereof, and be entitled to such priorities on
35 the revenues paid into the special Marshall University
36 capital improvements fund as may be provided in the
37 resolution authorizing the issuance of the bonds or in any
38 trust agreement made in connection therewith. The bonds
39 shall be signed by the governor, and by the president of
40 the board of regents, under the great seal of the state, at-
41 tested by the secretary of state, and the coupons attached
42 thereto shall bear the facsimile signature of the president
43 of the board. In case any of the officers whose signatures
44 appear on the bonds or coupons cease to be such officers
45 before the delivery of such bonds, such signatures shall
46 nevertheless be valid and sufficient for all purposes the
47 same as if such officers had remained in office until such
48 delivery.

49 Such bonds shall be sold in such manner as the board
50 may determine to be for the best interests of the state,
51 taking into consideration the financial responsibility of the
52 purchaser, the terms and conditions of the purchase, and
53 especially the availability of the proceeds of the bonds
54 when required for payment of the cost of such building or
55 buildings, improvements and land, such sale to be made
56 at a price not lower than a price, which when computed
57 upon standard tables of bond values, will show a net re-
58 turn of not more than eight percent per annum to the
59 purchaser upon the amount paid therefor. The proceeds
60 of such bonds shall be used solely for the payment of the
61 cost of such building or buildings, improvements and land,
62 and shall be deposited in the state treasury in a special
63 fund and checked out as provided by law for the dis-
64 bursement of other state funds. If the proceeds of such
65 bonds, by error in calculation or otherwise, shall, together
66 with any other funds used therefor as hereinbefore in this
67 article authorized, be less than the cost of such building
68 or buildings, improvements and land, additional bonds
69 may in like manner be issued to provide the amount of

70 the deficiency, but in no case to exceed the total amount
71 of bonds authorized herein less the amount of any other
72 funds used therefor as hereinbefore in this article autho-
73 rized; and unless otherwise provided for in the resolution
74 or trust agreement hereinafter mentioned, shall be
75 deemed to be of the same issue, and shall be entitled to
76 payment from the same fund, without preference or
77 priority, as the bonds before issued for such building or
78 buildings. If the proceeds of bonds issued for such build-
79 ing or buildings, improvements and land shall, together
80 with the amount of any other funds used therefor as here-
81 inbefore in this article authorized, exceed the cost there-
82 of, the surplus shall be paid into the sinking fund or re-
83 serve fund to be established for payment of the principal
84 and interest of such bonds as hereinafter provided. Prior
85 to the preparation of definitive bonds, the board may,
86 under like restrictions, issue temporary bonds with or
87 without coupons, exchangeable for definitive bonds upon
88 their issuance.

89 The bonds issued under the provisions of this article
90 shall be and have all the qualities of negotiable instru-
91 ments under the law merchant and the Uniform Com-
92 mercial Code of this state.

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

H. Darrel Darby

Chairman Senate Committee

Blaine C. Cook

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Harold Watson

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

H. P. Brotherton Jr.

President of the Senate

Louis F. McManus

Speaker House of Delegates

The within approved this the 26th
day of March, 1974.

Arch A. Phares Jr.

Governor

PRESENTED TO THE
GOVERNOR

Date 3/15/74

Time 2:50 p.m.