

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975

— ● —

ENROLLED

*Committee Substitute for*

HOUSE BILL No. 1163

(By Mr. Seibert)

— ● —

PASSED April 14 1975

In Effect from Passage



FILED IN THE OFFICE  
JAMES R. ALSTON  
SECRETARY OF STATE

YES DATE 5/2/75

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 1163**

(By MR. SEIBERT)

[Passed April 14, 1975; 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 million dollars, and in several issuances, none of which may exceed fifty million dollars, and with a specified ninety-day waiting period being applicable to any issuance and sale of the second fifty million dollars of bonds, 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; permitting the commissioner of the department of highways to determine the distribution of the total proceeds from the first fifty million dollars of bonds issued to subaccounts, after deposit of the total proceeds of each bond sale in the separate and distinct account in the state road fund; requiring notification to be given by the commissioner of the department of highways to the President of the Senate and Speaker of the House of

Delegates of such distribution; requiring the total proceeds from the second fifty million dollars of bonds to be distributed on a percentage basis; requiring the commissioner of the department of highways to make monthly reports of specific projects for which all proceeds have been obligated or expended; 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 amount of the total proceeds of such 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 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; distribution of bond proceeds; notification and report; 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 to
- 3 exceed one hundred million dollars are hereby authorized to be
- 4 issued and sold for the sole purpose of raising funds for the

5 building, construction, reconstruction, improving, upgrading  
6 and completion of state roads and highways and for bridge re-  
7 placement and improvement as provided for by the con-  
8 stitution and the laws enacted thereunder.

9 (a) The total proceeds from the first fifty million dollars  
10 of bonds issued and sold hereunder shall be deposited in the  
11 separate and distinct account, hereinafter provided for in  
12 section nine of this act, and shall be distributed to subac-  
13 counts of such account as determined necessary by the  
14 commissioner of the department of highways. The commis-  
15 sioner of the department of highways shall, within fifteen  
16 days after the sale of such bonds, notify the President of the  
17 Senate and the Speaker of the House of Delegates of the  
18 Legislature of West Virginia of his distribution determination,  
19 with the amount distributed to any subaccount to not exceed  
20 the total aggregate amount allowable for the designated  
21 purpose or program as specified in the constitutional amend-  
22 ment.

23 (b) The total proceeds of the second fifty million dollars of  
24 bonds issued and sold hereunder shall be deposited in the  
25 separate and distinct account, hereinafter provided for in  
26 section nine of this section, and shall be distributed to sub-  
27 accounts of such account in the following percentages:

28 (1) Twenty-four percent for bridge replacement and im-  
29 provement program;

30 (2) Twenty-six percent for completion of the Appalachian  
31 highway system;

32 (3) Ten percent for upgrading sections of trunkline and  
33 feeder systems;

34 (4) Ten percent for upgrading West Virginia state  
35 Route 2;

36 (5) Twenty percent for upgrading state and local service  
37 roads; and

38 (6) Ten percent for construction, reconstruction, improving  
39 and upgrading of U.S. Route 52 between Huntington and  
40 Bluefield, West Virginia.

41 (c) No later than ten days after the close of each month,  
42 the Commissioner of the Department of Highways shall submit  
43 to the President of the Senate and the Speaker of the House  
44 of Delegates of the Legislature of West Virginia a report of  
45 the specific projects and amount thereof awarded by the  
46 Department of Highways and for which such bond proceed  
47 moneys have been obligated or expended.

48 All such bonds may be issued by the governor in such  
49 amounts, in coupon or registered form, in such denominations,  
50 at such time, bearing such date or dates, as the governor may  
51 determine, based upon an examination of the West Virginia  
52 department of highways' yearly program which justifies the  
53 issuance by the governor of said bonds, and shall become due  
54 and payable serially, annually or semiannually, in such amounts  
55 and mature in such years as the governor may determine:  
56 *Provided*, That such bonds shall be sold in increments not to  
57 exceed fifty million dollars: *Provided, however*, That no bonds  
58 of the second fifty million dollars authorized hereunder shall  
59 be issued or sold until ninety days shall have elapsed after  
60 the sale of the final increment of road bonds as authorized by  
61 the Legislature in chapter thirteen, acts of the Legislature,  
62 second extraordinary session, one thousand nine hundred  
63 seventy-four: *Provided further*, That all bonds authorized to  
64 be issued and sold under this act shall mature within and not  
65 exceeding twenty-five years from their date: *And Provided*  
66 *further*, That the governor must offer all of said bonds for  
67 competitive bids from recognized financial investment institu-  
68 tions 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  
3 such transfer a fee of one dollar shall be charged by and  
4 paid to the state of West Virginia, to the credit of the state  
5 road fund. Bonds taken in exchange shall be cancelled by  
6 the auditor and treasurer and be carefully preserved by the  
7 treasurer. The treasurer shall make provisions for registering  
8 "payable to bearer" bonds, and for each bond registered a  
9 fee of one dollar shall likewise be charged by and paid to the



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  
 24 of record, in case of registered bonds) on the \_\_\_\_\_ day  
 25 of \_\_\_\_\_ 19\_\_\_\_, in lawful money of  
 26 the United States of America at the office of the treasurer  
 27 of the state of West Virginia at the capitol, of said state,  
 28 or, at \_\_\_\_\_ bank in the  
 29 city of New York, or, at \_\_\_\_\_ bank, at the  
 30 option of the holder, the sum of \_\_\_\_\_  
 31 dollars, with interest thereon at \_\_\_\_\_  
 32 percent a year from the date, payable semiannually in  
 33 like lawful money of the United States of America at the  
 34 treasurer's office or banks aforesaid, on the first day of  
 35 \_\_\_\_\_ and the first day of  
 36 \_\_\_\_\_ of each year (and in the case of  
 37 coupon bonds) according to the tenor of the annexed coupons  
 38 bearing the facsimile signature of the treasurer of the state  
 39 of West Virginia upon surrender of such coupons. This bond  
 40 (in case of a coupon bond) may be exchanged for a regis-  
 41 tered bond of like tenor upon application to the treasurer  
 42 of the state of West Virginia. (Redemption provisions, if  
 43 any, to be inserted here.)

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

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

58 This bond is hereby made exempt from any taxation by  
59 the state of West Virginia, or by any county, district or  
60 municipal corporation thereof.

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

68 \_\_\_\_\_  
69 Treasurer of the State of West Virginia

70 (SEAL)

71 Countersigned:

72 \_\_\_\_\_  
73 Auditor of the State of West Virginia.

#### §4. Form of coupon.

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

3 STATE OF WEST VIRGINIA

4 Bond No. \_\_\_\_\_ Coupon No. \_\_\_\_\_

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



13

14

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Treasurer of the State of West Virginia

15     The signature of the treasurer to such coupon shall be  
16 by his facsimile signature and the coupons shall be num-  
17 bered in the order of their maturity, from number one  
18 consecutively. The bonds and coupons may be signed,  
19 as provided in this act, by the present treasurer and audi-  
20 tor, or by any of their respective successors in office, and  
21 the bonds signed by the persons now in the office may be  
22 sold by the governor or his successor in office without being  
23 signed by the successor in office of the present treasurer or  
24 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  
3 books provided for the purpose, in each case giving the  
4 date, number, character and amount of obligations issued,  
5 and in case of registered bonds, the name and post-office  
6 address of the person, firm or corporation registered as the  
7 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 money from  
2 any and all appropriations made by the state from the state  
3 road fund for the purpose of paying the interest on such bonds  
4 or paying off and retiring the bonds, from transfer and registra-  
5 tion fees as herein provided, and from any other source what-  
6 soever which is made liable by law for the payment of the  
7 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 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 invested by the state treasurer in obligations of the  
16 government of the United States, bonds of the state of West

17 Virginia, or any political subdivision thereof: *Provided*, That  
 18 bonds or other obligations so purchased by the state treasurer  
 19 shall mature so as to provide sufficient money to pay off all  
 20 bonds herein provided to be issued as they become due; and  
 21 the money so paid into the state road fund under the pro-  
 22 visions of this act shall be expended for the purpose of paying  
 23 the interest and principal of the bonds hereby provided for as  
 24 they severally become due and payable.

**§7. Covenants of state.**

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

**§8. Sale by governor; minimum price.**

1 The governor shall sell the bonds herein authorized at  
 2 such time or times, within the specified periods and limitations,  
 3 as he may determine necessary to provide funds for the  
 4 building, construction, reconstruction, improving, upgrading  
 5 and completion of state roads and highways, and for bridge  
 6 replacement and improvement as herein provided, upon the  
 7 recommendation of the West Virginia commissioner of high-  
 8 ways, and after reviewing the program of the West Virginia  
 9 department of highways and subject to the limitations con-  
 10 tained in this act. All sales shall be at not less than par  
 11 and accrued interest. All interest coupons becoming payable  
 12 prior to the sale date shall be canceled by the treasurer and  
 13 rendered ineffective before the delivery of the bonds so  
 14 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  
2 authorized shall be paid into a separate and distinct account  
3 within the state road fund, and in order to control expendi-  
4 tures, said account shall contain six subaccounts to be  
5 designated as follows; bridge replacement and improvement  
6 subaccount; Appalachian highway system completion sub-  
7 account; trunkline and feeder system upgrading subaccount;  
8 state Route 2 upgrading subaccount; state and local service  
9 roads upgrading subaccount; construction, reconstruction, im-  
10 proving, and upgrading of U. S. Route 52 between Huntington  
11 and Bluefield, West Virginia, subaccount.

12 It is the express intent of the Legislature that when the  
13 proceeds of each issue of bonds sold have been deposited,  
14 as aforesaid, and distributed to each subaccount in the  
15 manner provided for in section one of this bill, there shall  
16 be no transfer of funds thereafter among the six sub-  
17 accounts. The proceeds of each sale of bonds shall be al-  
18 located to the subaccounts, as designated above, and used  
19 and appropriated solely for expenditure in the manner as  
20 hereinbefore directed.

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

31 On or before the thirty-first day of January of each year,  
32 the commissioner of the department of highways shall submit  
33 to the legislative auditor an accountability status report of  
34 all moneys received or expended within the state road fund,  
35 and the six separate subaccounts herein provided and any

36 other information required to fully account in respect to the  
37 handling of bonds issued and moneys expended under the  
38 authority of the Better Highways Amendment of 1973. No  
39 moneys shall be expended by the commissioner other than as  
40 authorized in said amendment.

**§10. Plates, etc., property of state.**

1 The plates, casts, dies or other forms from which the  
2 bonds authorized by this bill 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. 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.

**§13. 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  
3 for the issuance of a final approving opinion regarding the  
4 legality of the sale of such bonds.

**§14. Approval and payment of all necessary expenses.**

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

Enr. Com. Sub. for H. B. 1163] 12

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

James L. Davis  
Chairman Senate Committee

Clarence C. Chastain, Jr.  
Chairman House Committee

Originated in the House.

Takes effect from passage.

J. C. Dillon, Jr.  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

H. B. Gentry  
President of the Senate

Lewis F. McManus  
Speaker House of Delegates

The within approved this the 30th  
day of April, 1975.

Andrew Shady  
Governor



PRESENTED TO THE  
GOVERNOR

Date 4/18/75

Time 1:55 p.m.

APR 19 1975

OFFICE OF  
STATE CLERK OF ST.  
OFFICE OF THE ATTORNEY