WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

ENROLLED
Committee Substitute for
HOUSE BILL No. 1163

(By Mr.)

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
building, construction, reconstruction, improving, upgrading and completion of state roads and highways and for bridge replacement and improvement as provided for by the constitution and the laws enacted thereunder.

(a) The total proceeds from the first fifty million dollars of bonds issued and sold hereunder shall be deposited in the separate and distinct account, hereinafter provided for in section nine of this act, and shall be distributed to subaccounts of such account as determined necessary by the commissioner of the department of highways. The commissioner of the department of highways shall, within fifteen days after the sale of such bonds, notify the President of the Senate and the Speaker of the House of Delegates of the Legislature of West Virginia of his distribution determination, with the amount distributed to any subaccount to not exceed the total aggregate amount allowable for the designated purpose or program as specified in the constitutional amendment.

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

1. Twenty-four percent for bridge replacement and improvement program;
2. Twenty-six percent for completion of the Appalachian highway system;
3. Ten percent for upgrading sections of trunkline and feeder systems;
4. Ten percent for upgrading West Virginia state Route 2;
5. Twenty percent for upgrading state and local service roads; and
6. Ten percent for construction, reconstruction, improving and upgrading of U.S. Route 52 between Huntington and Bluefield, West Virginia.
(c) No later than ten days after the close of each month, the Commissioner of the Department of Highways shall submit to the President of the Senate and the Speaker of the House of Delegates of the Legislature of West Virginia a report of the specific projects and amount thereof awarded by the Department of Highways and for which such bond proceeds have been obligated or expended.

All such bonds may be issued by the governor in such amounts, in coupon or registered form, in such denominations, at such time, bearing such date or dates, as the governor may determine, based upon an examination of the West Virginia department of highways' yearly program which justifies the issuance by the governor of said bonds, and shall become due and payable serially, annually or semiannually, in such amounts and mature in such years as the governor may determine: Provided, That such bonds shall be sold in increments not to exceed fifty million dollars: Provided, however, That no bonds of the second fifty million dollars authorized hereunder shall be issued or sold until ninety days shall have elapsed after the sale of the final increment of road bonds as authorized by the Legislature in chapter thirteen, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four: Provided further, That all bonds authorized to be issued and sold under this act shall mature within and not exceeding twenty-five years from their date: And Provided further, That the governor must offer all of said bonds for competitive bids from recognized financial investment institutions before said bonds may be sold.

§2. Transfer fee; registration fee; where payable; interest rate; tax exempt.

The auditor and the treasurer are hereby authorized to arrange for the transfer of registered bonds and for each such transfer a fee of one dollar shall be charged by and paid to the state of West Virginia, to the credit of the state road fund. Bonds taken in exchange shall be cancelled by the auditor and treasurer and be carefully preserved by the treasurer. The treasurer shall make provisions for registering "payable to bearer" bonds, and for each bond registered a fee of one dollar shall likewise be charged by and paid to the
state of West Virginia, to the credit of the state road fund. All such bonds shall be payable at the office of the treasurer of the state of West Virginia, or, at the option of the holder, at a bank in the city of New York to be designated by the governor, or, at the option of the holder at such other bank or banks, within the state as may be designated or approved by the governor. The bonds shall bear interest, payable semiannually, to bearer, at the office of the treasurer of the state of West Virginia, at the capitol of the state, or at the banks designated and approved by the governor, upon presentation and surrender of interest coupons then due, in the case of coupon bonds. For the payment of interest on registered bonds, the treasurer of the state of West Virginia shall requisition a warrant from the auditor of the state to be drawn on the state treasurer, and shall mail the check to the registered owner at the address as shown by the record of registration. Both the principal and interest of the bonds shall be made payable in lawful money of the United States of America and the bonds shall be exempt from taxation by the state of West Virginia, or by any county, district or municipality thereof, which facts shall appear on the face of the bonds as part of the contract with the holder thereof.

§3. Form of bond.

The bonds shall be executed on behalf of the state of West Virginia, by the manual or facsimile signature of the treasurer thereof, under the great seal of the state or a facsimile thereof, and countersigned by the manual or facsimile signature of the auditor of the state: Provided, That one of said signatures on said bonds shall be a manual signature and said bonds shall be in the following form or to the following effect, as nearly as may be, namely:

COUPON ROAD BOND

(Or registered road bond, as the case may be)

OF THE

STATE OF WEST VIRGINIA

$__________________________ No.__________________________
The state of West Virginia, under and by virtue of authority of an amendment to the constitution, which was proposed by Senate Joint Resolution No. 17 adopted the thirteenth day of April, one thousand nine hundred seventy-three, and was ratified by a vote of the people at the special election on the sixth day of November, one thousand nine hundred seventy-three, which is hereby made a part hereof as fully as if set forth at length herein, acknowledges itself to be indebted to and hereby promises to pay to the bearer hereof (in case of a coupon bond) or to __________________ or assigns (the owner of record, in case of registered bonds) on the __________ day of ____________________________ 19__, in lawful money of the United States of America at the office of the treasurer of the state of West Virginia at the capitol, of said state, or, at __________________________ bank in the city of New York, or, at __________________________ bank, at the option of the holder, the sum of __________________________ dollars, with interest thereon at __________ percent a year from the date, payable semiannually in like lawful money of the United States of America at the treasurer's office or banks aforesaid, on the first day of ____________________________ and the first day of ____________________________ of each year (and in the case of coupon bonds) according to the tenor of the annexed coupons bearing the facsimile signature of the treasurer of the state of West Virginia upon surrender of such coupons. This bond (in case of a coupon bond) may be exchanged for a registered bond of like tenor upon application to the treasurer of the state of West Virginia. (Redemption provisions, if any, to be inserted here.)

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

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

In testimony whereof, witness the manual or facsimile
signature of the treasurer of the state of West Virginia, and
the manual or facsimile countersignature of the auditor of
the state, hereto affixed according to law, dated the __________
day of __________________________, one thousand nine
hundred __________________________, and the seal of
the state of West Virginia or a facsimile thereof.

Treasurer of the State of West Virginia

(SEAL)

Countersigned:

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Auditor of the State of West Virginia.

§4. Form of coupon.

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

STATE OF WEST VIRGINIA

Bond No. ________________ Coupon No. ________

On the first day of __________________________, 19_________,
the state of West Virginia will pay to the bearer, in lawful
money of the United States of America, at the office of the
treasurer of the state, or, at _______________________
bank in the city of New York, or, at _______________________
________________________ bank, at the option of the holder
the sum of ______________________ dollars, the same being
semiannual interest on Road Bond No. __________________________.
Treasurer of the State of West Virginia

The signature of the treasurer to such coupon shall be by his facsimile signature and the coupons shall be num-
bered in the order of their maturity, from number one consecutively. The bonds and coupons may be signed,
as provided in this act, by the present treasurer and audi-
tor, or by any of their respective successors in office, and
the bonds signed by the persons now in the office may be
sold by the governor or his successor in office without being
signed by the successor in office of the present treasurer or
auditor.

§5. Listing by auditor.

All coupons and registered bonds issued under this act shall be separately listed by the auditor of the state in books provided for the purpose, in each case giving the date, number, character and amount of obligations issued, and in case of registered bonds, the name and post-office address of the person, firm or corporation registered as the owner thereof.

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

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

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

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

§7. Covenants of state.

The state of West Virginia covenants and agrees with the holders of the bonds issued pursuant hereto as follows:

1. That such bonds shall constitute a direct and general obligation of the state of West Virginia;
2. That the full faith and credit of the state is hereby pledged to secure the payment of the principal and interest of such bonds;
3. That an annual state tax shall be collected in an amount sufficient to pay as it may accrue the interest on such bonds and the principal thereof; and
4. That such tax shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and principal of said bonds becoming due and payable in such year are insufficient therefor.

§8. Sale by governor; minimum price.

The governor shall sell the bonds herein authorized at such time or times, within the specified periods and limitations, as he may determine necessary to provide funds for the building, construction, reconstruction, improving, upgrading and completion of state roads and highways, and for bridge replacement and improvement as herein provided, upon the recommendation of the West Virginia commissioner of highways, and after reviewing the program of the West Virginia department of highways and subject to the limitations contained in this act. All sales shall be at not less than par and accrued interest. All interest coupons becoming payable prior to the sale date shall be canceled by the treasurer and rendered ineffective before the delivery 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.

The proceeds of the sale of each issue of bonds herein authorized shall be paid into a separate and distinct account within the state road fund, and in order to control expenditures, said account shall contain six subaccounts to be designated as follows: bridge replacement and improvement subaccount; Appalachian highway system completion subaccount; trunkline and feeder system upgrading subaccount; state Route 2 upgrading subaccount; state and local service roads upgrading subaccount; construction, reconstruction, improving, and upgrading of U. S. Route 52 between Huntington and Bluefield, West Virginia, subaccount.

It is the express intent of the Legislature that when the proceeds of each issue of bonds sold have been deposited, as aforesaid, and distributed to each subaccount in the manner provided for in section one of this bill, there shall be no transfer of funds thereafter among the six subaccounts. The proceeds of each sale of bonds shall be allocated to the subaccounts, as designated above, and used and appropriated solely for expenditure in the manner as hereinbefore directed.

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

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

§10. Plates, etc., property of state.
1 The plates, casts, dies or other forms from which the bonds authorized by this bill are produced or made shall 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 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 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 representative, shall serve as bond counsel and shall be responsible for the issuance of a final approving opinion regarding the legality of the sale of such bonds.

§14. Approval and payment of all necessary expenses.
1 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.

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

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor
PRESENTED TO THE GOVERNOR

Date 4/18/75
Time 1:55 p.m.