

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

— ● —

ENROLLED

Committee Substitute for

HOUSE BILL No. 1627

(By Mr. Speaker, Mr. Kopp)

— ● —

PASSED April 9, 1977

In Effect - from - Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1627
(MR. SPEAKER, MR. KOPP)

(Originating in the House Committee on Finance)

[Passed April 9, 1977; 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 an amount not exceeding one hundred fifty million dollars and in several issuances, none of which may exceed fifty million dollars, during the fiscal year ending the thirtieth day of June, one thousand nine hundred seventy-seven or thereafter, for the sole purpose of raising funds for the building, construction, reconstruction, improving, upgrading, and completion of state roads and highways and for the replacement and improvement of bridges as provided for by the constitution and the laws enacted thereunder; requiring notification and report to be given to the president of the Senate and the speaker of the House of specific projects and amounts thereof awarded; specifying the powers of and limitations upon the governor in the issuance and sale of such bonds; allocating proceeds in certain amounts; permitting the commissioner of the department of highways to determine the uses of the total proceeds from bonds issued; 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 bonds shall be paid into a separate and distinct account in the state road fund and for expenditures from such 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 or to obtain financial advisor assistance; 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; when may issue.

1 Bonds of the state of West Virginia, under authority of
2 the Better Highways Amendment of 1973, of the par value
3 not to exceed one hundred fifty million dollars during the fiscal
4 year ending the thirtieth day of June, one thousand nine
5 hundred seventy-seven or thereafter, are hereby authorized
6 to be issued and sold for the sole purpose of raising funds
7 for the building, construction, reconstruction, improving, up-
8 grading, and completion of state roads and highways and
9 for the replacement and improvement of bridges as provided
10 for by the constitution and the laws enacted thereunder and
11 and such funds shall be designated for the following purposes
12 in the following amounts:

13 (1) Bridge replacement and improvement program—not to
14 exceed thirty-nine million dollars;

15 (2) Appalachian highway system—not to exceed sixteen
16 million dollars;

17 (3) Upgrading sections of trunkline and feeder systems—
18 not to exceed ten million dollars;

19 (4) Upgrading West Virginia state Route 2—not to exceed
20 eighteen million dollars;

21 (5) Upgrading state local service roads—not to exceed
22 forty million dollars;

23 (6) Construction, reconstruction, improving and upgrading
24 of U. S. Route 52 between Huntington and Bluefield, West
25 Virginia—not to exceed twenty-seven million dollars.

26 No later than ten days after the close of each month, the
27 commissioner of the department of highways shall submit to the
28 president of the Senate and the speaker of the House of Dele-
29 gates of the Legislature of West Virginia a report of the specific
30 projects and amount thereof awarded by the department of
31 highways and for which such bond proceed moneys have been
32 obligated or expended.

33 Such bonds may be issued by the governor in such amounts,
34 in coupon or registered form, in such denominations, at such
35 time, bearing such date or dates, as the governor may deter-
36 mine, based upon an examination of the West Virginia de-
37 partment of highways' yearly program which justified the
38 issuance by the governor of said bonds, and shall become due
39 and payable serially, annually or semiannually, in such amounts
40 and mature in such years as the governor may determine:
41 *Provided*, That such bonds shall be sold in increments not to
42 exceed fifty million dollars: *Provided, however*, That all
43 bonds authorized to be issued and sold under this act shall
44 mature within and not exceeding twenty-five years from their
45 date: *Provided further*, That the governor must offer said
46 bonds for competitive bids from recognized financial investment
47 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
4 the state of West Virginia, to the credit of the state road fund.
5 Bonds taken in exchange shall be cancelled by the auditor and
6 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 dol-
9 lar shall likewise be charged by and paid to the state of West
10 Virginia, to the credit of the state road fund. All such bonds
11 shall be payable at the office of the treasurer of the state of
12 West Virginia, or, at the option of the holder, at a bank in the
13 city of New York to be designated by the governor, or, at the
14 option of the holder at such other bank or banks, within the
15 state as may be designated or approved by the governor. The
16 bonds shall bear interest, payable semiannually, to bearer, at
17 the office of the treasurer of the state of West Virginia, at
18 the capitol of the state, or at the banks designated and ap-
19 proved by the governor, upon presentation and surrender of
20 interest coupons then due, in the case of coupon bonds. For
21 the payment of interest on registered bonds, the treasurer of
22 the state of West Virginia shall requisition a warrant from the
23 auditor of the state to be drawn on the state treasurer, and
24 shall mail such warrant to the registered owner at the address
25 as shown by the record of registration. Both the principal and
26 interest of the bonds shall be payable in lawful money of the
27 United States of America and the bonds shall be exempt from
28 taxation by the state of West Virginia, or by any county,
29 district or municipality thereof, which facts shall appear on the
30 face of the bonds as part of the contract with the holder
31 thereof.

§3. Form of bond.

1 The bonds shall be executed on behalf of the state of
2 West Virginia, by the manual or facsimile signature of the
3 treasurer thereof, under the great seal of the state or a
4 facsimile thereof, and countersigned by the manual or facsimile
5 signature of the auditor of the state: *Provided*, That one

6 of said signatures on said bonds shall be a manual signature
7 and said bonds shall be in the following form or to the
8 following effect, as nearly as 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
18 ratified by a vote of the people at the special election on the
19 sixth day of November, one thousand nine hundred seventy-
20 three, which is hereby made a part hereof as fully as if set
21 forth at length herein, acknowledges itself to be indebted to
22 and hereby promises to pay to the bearer hereof (in case of
23 a coupon bond) or to or assigns (the
24 owner of record, in case of registered bonds) on the
25 date of, 19....., in lawful money of the United
26 States of America at the office of the treasurer of the state
27 of West Virginia at the capitol of said state, or, at
28 bank in the city of New York, or, at bank,
29 within the state, at the option of the holder, the sum of
30 dollars, with interest thereon at
31 percent a year from the date, payable semiannually in like
32 lawful money of the United States of America at the treasurer's
33 office or banks aforesaid, on the first day of,
34 and the first day of of each year (and in the
35 case of coupon bonds) according to the tenor of the annexed
36 coupons bearing the facsimile signature of the treasurer of
37 the state of West Virginia upon surrender of such coupons.
38 This bond (in case of a coupon bond) may be exchanged for
39 a registered of bond like tenor upon application to the trea-
40 sure of the state of West Virginia. (Redemption provisions, if
41 any, to be inserted here.)

42 To secure the payment of the principal and interest of

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

56 This bond is hereby made exempt from any taxation by
57 the state of West Virginia, or by any county, district or munic-
58 ipal corporation thereof.

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

66 _____
67 Treasurer of the State of West Virginia
68 (SEAL)

69 Countersigned:

70 _____
71 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_____,
5 the state of West Virginia will pay to the bearer, in lawful
6 money of the United States of America, at the office of the

7 treasurer of the state, or, at _____ bank
 8 in the city of New York, or, at _____ bank
 9 within the state, at the option of the holder, the sum of
 10 _____ dollars, the same being semiannual
 11 interest on Road Bond No. _____.

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 act,
 18 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 shall
 2 be separately listed by the auditor of the state in books pro-
 3 vided 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; invest-
 ment 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 regis-
 5 tration fees as herein provided, and from any other source
 6 whatsoever which is made liable by law for the payment of
 7 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 invested by the state treasurer in obligations
16 of the government of the United States of America, bonds of
17 the state of West Virginia, or any political subdivision there-
18 of: *Provided*, That bonds or other obligations so purchased by
19 the state treasurer shall mature so as to provide sufficient
20 money to pay off all bonds herein provided to be issued as they
21 become due; and the money so paid into the state road fund
22 under the provisions of this act shall be expended for the
23 purpose of paying the interest and principal of the bonds
24 hereby provided 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:
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
6 the payment of the principal and interest of such bonds;
7 (3) that an annual state tax shall be collected in an amount
8 sufficient to pay as it may accrue the interest on such bonds
9 and the principal thereof; and (4) that such tax shall be
10 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
13 principal of said bonds becoming due and payable in such
14 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, construction, reconstruction, improving, up-
4 grading and completion of state roads and highways, and for
5 bridge replacement and improvement, as herein provided,
6 upon the recommendation of the West Virginia commissioner
7 of highways, and after reviewing the program of the West
8 Virginia department of highways and subject to the limitations
9 contained in this bill. All sales shall be at not less than par
10 and accrued interest. All interest coupons becoming payable

11 prior to the sale date shall be canceled by the treasurer and
12 rendered ineffective before the delivery of the bonds so sold.

§9. Proceeds paid into separate account in state road fund; expenditures; investment; annual accountability status report.

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 construction, reconstruction, improving, upgrading, and com-
5 pletion of state roads and highways and for bridge replace-
6 ment and improvement as provided for by the state consti-
7 tution and the laws enacted thereunder.

8 Except for such sums necessary for current operating
9 balances, such account shall be invested by the state treasurer
10 in obligations of the government of the United States, bonds
11 of the state of West Virginia, or any political subdivision
12 thereof: *Provided*, That no such investment may adversely
13 affect the current operating balances of such fund: *Provided*,
14 *however*, That all interest accruing from such investment shall
15 be paid into the state road fund for debt service on the bonds
16 issued.

17 On or before the thirty-first day of January of each year,
18 the commisisoner of the department of highways shall submit
19 to the legislative auditor an accountability status report of all
20 moneys received or expended within the state road fund, here-
21 in provided and any other information required to fully account
22 in respect to the handling of bonds issued and moneys expend-
23 ed under the authority of the Better Highways Amendment of
24 1973. No moneys shall be expended by the commissioner
25 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
2 authorized by this bill 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 bill.

§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
3 held by them in lieu of permanent bonds. When interim certifi-
4 cates are so issued, they shall become full and legal obliga-
5 tions of the state of West Virginia under all of the provisions
6 of this bill just as fully and completely as the permanent
7 bonds.

§13. State treasurer to be financial advisor.

1 The state treasurer shall serve as financial advisor to the
2 governor and may obtain financial advisor assistance for the
3 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 repre-
2 sentative, 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 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.

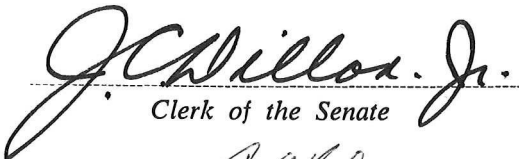
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee


Chairman House Committee

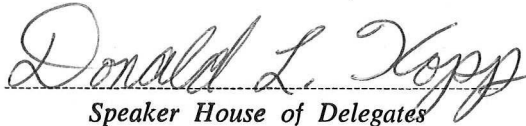
Originated in the House.

Takes effect from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within is approved this the 27
day of April, 1977.


Governor



APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED

APR 21 2 23 PM '77

OFFICE OF THE GOVERNOR

Date April 27, 1977

Time 5:00 p.m.

RECEIVED

77 APR 27 PM 10:15

OFFICE
SECY. OF STATE