WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

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ENROLLED

Committee Substitute for
HOUSE BILL No. 1627

(By Mr. Speaker, Mr. Kopp)

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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 the Better Highways Amendment of 1973, of the par value not to exceed one hundred fifty million dollars during the fiscal year ending the thirtieth day of June, one thousand nine hundred seventy-seven or thereafter, are hereby authorized to be 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 the replacement and improvement of bridges as provided by the constitution and the laws enacted thereunder and such funds shall be designated for the following purposes in the following amounts:
(1) Bridge replacement and improvement program—not to exceed thirty-nine million dollars;

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

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

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

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

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

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 proceed moneys have been obligated or expended.

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 justified 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 all bonds authorized to be issued and sold under this act shall mature within and not exceeding twenty-five years from their date: Provided further, That the governor must offer 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 such warrant to the registered owner at the address as shown by the record of registration. Both the principal and interest of the bonds shall be 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 ______
date 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,
within the state, 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 like tenor upon application to the trea-
sure 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 convenants and agrees
with the holder as follows: (1) That this bond shall con-
stitute 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 ap-
propriated 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 munic-
ipal 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 _______________ 

(Seal)

__________________________
Treasurer of the State of West Virginia

Countersigned:

__________________________
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 of West Virginia

The signature of the treasurer to such coupon shall be by his facsimile signature and the coupons shall be numbered 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 auditor, 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 of America, 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 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 bill. 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 separate account in state road fund; expenditures; investment; annual accountability status report.

The proceeds of all sales of bonds herein authorized shall be paid into a separate and distinct account in the state road fund and shall be used and appropriated solely 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 state constitution and the laws enacted thereunder.

Except for such sums necessary for current operating balances, such account 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 affect 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, 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.

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.

The state auditor shall be the custodian of all unsold bonds issued pursuant to the provisions of this bill.
§12. **Interim certificates.**

1 The governor may authorize the issuance of interim certificates to be issued to the purchasers of such bonds to be held by them in lieu of permanent bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this bill just as fully and completely as the permanent bonds.

§13. **State treasurer to be financial advisor.**

1 The state treasurer shall serve as financial advisor to the governor and may obtain financial advisor assistance 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 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.

§15. **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.

James L. Davis
Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect from passage.

J. Villas, Jr.
Clerk of the Senate

Clerk of the House of Delegates

W. H. Bixler, Jr.
President of the Senate

Donald L. Pope
Speaker House of Delegates

The within imprisoned this the 27th
day of April, 1977.

Governor

C-641