

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978



ENROLLED

SENATE BILL NO. 373

(By Mr. Bootherton, Mr. President)



PASSED March 11, 1978

In Effect July 1, 1978 **Passage**



100-512

ENROLLED

Senate Bill No. 373

(By MR. BROTHERTON, MR. PRESIDENT)

[Passed March 11, 1978; in effect July 1, 1978.]

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 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-nine 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 Delegates 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 lien 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 million dollars during the fiscal
4 year ending the thirtieth day of June, one thousand nine
5 hundred seventy-nine 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,
8 upgrading and completion of state roads and highways
9 and for the replacement and improvement of bridges as
10 provided for by the constitution and the laws enacted
11 thereunder and such funds shall be designated for the
12 following purposes in the following amounts:

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

15 (2) Appalachian highway system—not to exceed sixty-
16 two million dollars;

17 (3) Upgrading state local roads—not to exceed two
18 million dollars;

19 (4) Construction, reconstruction, improving and up-
20 grading of US Route 52 between Huntington and Blue-
21 field, West Virginia—not to exceed three million dollars.

22 No later than ten days after the close of each month,

23 the commissioner of the department of highways shall
24 submit to the president of the Senate and the speaker of
25 the House of Delegates of the Legislature of West Vir-
26 ginia a report of the specific projects and amount thereof
27 awarded by the department of highways and for which
28 such bond proceed moneys have been obligated or ex-
29 pended.

30 Such bonds may be issued by the governor in such
31 amounts, in coupon or registered form, in such denomina-
32 tions, at such time, bearing such date or dates, as the gov-
33 ernor may determine, based upon an examination of the
34 West Virginia department of highways' yearly program
35 which justified the issuance by the governor of said bonds,
36 and shall become due and payable serially, annually or
37 semiannually, in such amounts and mature in such years
38 as the governor may determine: *Provided*, That such
39 bonds shall be sold in increments not to exceed fifty mil-
40 lion dollars: *Provided, however*, That all bonds authorized
41 to be issued and sold under this act shall mature within
42 and not exceeding twenty-five years from their date:
43 *Provided further*, That the governor must offer said bonds
44 for competitive bids from recognized financial investment
45 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
2 to arrange for the transfer of registered bonds and for
3 each such transfer a fee of one dollar shall be charged
4 by and paid to the state of West Virginia, to the credit
5 of the state road fund. Bonds taken in exchange shall be
6 canceled by the auditor and treasurer and be carefully
7 preserved by the treasurer. The treasurer shall make
8 provisions for registering "payable to bearer" bonds, and
9 for each bond registered a fee of one dollar shall like-
10 wise be charged by and paid to the state of West Vir-
11 ginia, to the credit of the state road fund. All such bonds
12 shall be payable at the office of the treasurer of the state
13 of West Virginia, or, at the option of the holder, at a
14 bank in the city of New York to be designated by the
15 governor, or, at the option of the holder at such other

16 bank or banks, within the state as may be designated or
17 approved by the governor. The bonds shall bear interest,
18 payable semiannually, to bearer, at the office of the
19 treasurer of the state of West Virginia, at the capitol of
20 the state, or at the banks designated and approved by the
21 governor, upon presentation and surrender of interest
22 coupons then due, in the case of coupon bonds. For the
23 payment of interest on registered bonds, the treasurer
24 of the state of West Virginia shall requisition a warrant
25 from the auditor of the state to be drawn on the
26 state treasurer, and shall mail such warrant to the
27 registered owner at the address as shown by the record
28 of registration. Both the principal and interest of the
29 bonds shall be payable in lawful money of the United
30 States of America and the bonds shall be exempt from
31 taxation by the state of West Virginia, or by any county,
32 district or municipality thereof, which facts shall appear
33 on the face of the bonds as part of the contract with the
34 holder thereof.

§3. Form of bond.

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

COUPON ROAD BOND

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

OF THE

STATE OF WEST VIRGINIA

14 \$ _____ No. _____

15 The state of West Virginia, under and by virtue of
16 authority of an amendment to the constitution, which
17 was proposed by Senate Joint Resolution No. 17, adopted
18 the thirteenth day of April, one thousand nine hundred
19 seventy-three, and was ratified by a vote of the people
20 at the special election on the sixth day of November, one
21 thousand nine hundred seventy-three, which is hereby

22 made a part hereof as fully as if set forth at length
23 herein, acknowledges itself to be indebted to and hereby
24 promises to pay to the bearer hereof (in case of a coupon
25 bond) or to _____ or assigns (the owner
26 of record, in case of registered bonds) on the _____
27 date of _____, 19____, in lawful money of the
28 United States of America at the office of the treasurer of
29 the state of West Virginia at the capitol of said state, or,
30 at _____ bank in the city of New York, or, at _____
31 bank, within the state, at the option of the holder, the
32 sum of _____ dollars, with interest thereon at _____
33 percent a year from the date, payable semiannually in
34 like lawful money of the United States of America at the
35 treasurer's office or banks aforesaid, on the first day of
36 _____, and the first day of _____ of each year (and
37 in the case of coupon bonds) according to the tenor of
38 the annexed coupons bearing the facsimile signature of
39 the treasurer of the state of West Virginia upon sur-
40 render of such coupons. This bond (in case of a coupon
41 bond) may be exchanged for a registered bond of like
42 tenor upon application to the treasurer of the state of
43 West Virginia. (Redemption provisions, if any, to be
44 inserted here.)

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

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

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

70

71 _____
Treasurer of the State of West Virginia.

72 (SEAL)

73 Countersigned:

74 _____

75 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 law-
7 ful money of the United States of America, at the office of
8 the treasurer of the state, or, at _____ bank
9 in the city of New York, or, at _____ bank
10 within the state, at the option of the holder, the sum of
11 _____ dollars, the same being semiannual
12 interest on Road Bond No. _____.

13 _____

14 _____
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, as
19 provided in this act, by the present treasurer and auditor,
20 or by any of their respective successors in office, and the
21 bonds signed by the persons now in the office may be sold
22 by the governor or his successor in office without being
23 signed by the successor in office of the present treasurer
24 or 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
7 the 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
2 from any and all appropriations made by the state from
3 the state road fund for the purpose of paying the interest
4 on such bonds or paying off and retiring the bonds, from
5 transfer and registration fees as herein provided, and
6 from any other source whatsoever which is made liable
7 by law for the payment of the principal of such bonds or
8 the interest thereon.

9 All such funds shall be kept by the treasurer in a sep-
10 arate account, under the designation aforesaid, and all
11 moneys belonging to the fund shall be deposited in the
12 state treasury to the credit thereof.

13 Such fund shall be applied by the treasurer of the state
14 first to the payment of the semiannual interest on such
15 bonds as it shall become due as herein provided. The
16 remainder of the fund shall be invested by the state
17 treasurer in obligations of the government of the United
18 States of America, bonds of the state of West Virginia,
19 or any political subdivision thereof: *Provided*, That bonds
20 or other obligations so purchased by the state treasurer
21 shall mature so as to provide sufficient money to pay
22 all bonds herein provided to be issued as they become
23 due; and the money so paid into the state road fund under
24 the provisions of this act shall be expended for the pur-
25 pose of paying the interest and principal of the bonds
26 hereby provided for as they severally become due and
27 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 fol-
3 lows: (1) That such bonds shall constitute a direct and
4 general obligation of the state of West Virginia; (2) that
5 the full faith and credit of the state is hereby pledged to
6 secure the payment of the principal and interest of such
7 bonds; (3) that an annual state tax shall be collected in
8 an amount sufficient to pay as it may accrue the interest
9 on such bonds and the principal thereof; and (4) that
10 such tax shall be levied in any year only to the extent
11 that the moneys in the state road fund irrevocably set
12 aside and appropriated for and applied to the payment of
13 the interest on and principal of said bonds becoming due
14 and payable in such year are insufficient therefor.

§8. Sale by governor; minimum price.

1 The governor shall sell the bonds herein authorized at
2 such time or times as he may determine necessary to
3 provide funds for the building, construction, reconstruc-
4 tion, improving, upgrading and completion of state roads
5 and highways, and for bridge replacement and improve-
6 ment, as herein provided, upon the recommendation of
7 the West Virginia commissioner of highways, and after
8 reviewing the program of the West Virginia department
9 of highways and subject to the limitations contained in
10 this bill. All sales shall be at not less than par and accrued
11 interest. All interest coupons becoming payable prior to
12 the sale date shall be canceled by the treasurer and ren-
13 dered 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
2 shall be paid into a separate and distinct account in the
3 state road fund and shall be used and appropriated solely
4 for the building, construction, reconstruction, improving,
5 upgrading and completion of state roads and highways
6 and for bridge replacement and improvement as pro-
7 vided for by the state constitution and the laws enacted
8 thereunder.

9 Except for such sums necessary for current operating

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

18 On or before the thirty-first day of January of each
19 year, the commissioner of the department of highways
20 shall submit to the legislative auditor an accountability
21 status report of all moneys received or expended within
22 the state road fund, herein provided and any other in-
23 formation required to fully account in respect to the
24 handling of bonds issued and moneys expended **under**
25 the authority of the Better Highways Amendment of
26 1973. No moneys shall be expended by the commissioner
27 other than as 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 bill.

§12. Interim certificates.

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

§13. State treasurer to be financial advisor.

1 The state treasurer shall serve as financial advisor to
2 the governor 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 repre-
2 sentative, shall serve as bond counsel and shall be
3 responsible for the issuance of a final approving opinion
4 regarding the legality of the sale of such bonds.

§15. 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.

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

James L. Davis
Chairman Senate Committee

Churence C. Cheston Jr.
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1978.

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

V. A. Blankenship
Clerk of the House of Delegates

W. G. Bullock Jr.
President of the Senate

Donald L. Topp
Speaker House of Delegates

The within is approved this the 21
day of March, 1978.

John D. Raby Jr.
Governor

APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED
MAR 21 9 35 AM '78
OFFICE OF THE GOVERNOR

Date March 21, 1978
Time 4:00 p.m.

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OFFICE
ECY. OF STATE