WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1978

ENROLLED

SENATE BILL NO. 373

(By Mr. [Signature of President])

PASSED ________________________ 1978

In Effect ________________________ Passage

[Signature]
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 ac-
count; 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; pro-
viding 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 attor-
ey 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,
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 canceled 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.
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
$ 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_________, 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 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:

______________________________

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 within the state, 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 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.

1 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.

1 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.

2 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.

3 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 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.

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
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 funds: Provided, however, That all interest ac-
cruing 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 in-
formation 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
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 representa-
tive to serve as bond counsel.
1 The attorney general, or his duly appointed legal repre-
tative, shall serve as bond counsel and shall be
2 responsible for the issuance of a final approving opinion
3 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

Charmaine L. Christmas
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1978.

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

W.C. Blankenship
Clerk of the House of Delegates

E.J. Buffington
President of the Senate

Donald L. Zodiac
Speaker House of Delegates

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

John D. Peaden
Governor