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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

## WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992

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# ENROLLED

*Com. Sub. For*

HOUSE BILL No. *4447*

(By Delegate

*Mr. Speaker, Mr. Chambers,  
and Delegate Burk  
[By Request of the Executive]*

Passed *March 7* 1992

In Effect *From* Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4447**

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE BURK)  
[By Request of the Executive]

[Passed March 7, 1992; in effect from passage.]

AN ACT to amend chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-g, relating to providing for the issuance of refunding bonds; subjecting determinations to issue refunding bonds to the provisions of the debt management act; providing security for refunding bonds; determining the principal amount of refunding bonds to be issued; prescribing the use of sinking and reserve funds; providing for the terms of refunding bonds; providing for the sale of refunding bonds at, above or below par value; providing for authority of state agencies to enter into swap agreements; providing for the terms of such swap agreements; providing for the application of certain provisions of the code of West Virginia and acts of the Legislature to refunding bonds; providing for the repayment of bonds to be refunded; providing for bonds previously issued by the university of West Virginia board of trustees and the board of directors of the state college system; providing authority for the issuance of refunding bonds; providing for the issuance of refunding bonds without the election or creation of a new debt; and providing for the exemption

from taxation of refunding bonds.

*Be it enacted by the Legislature of West Virginia:*

That chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-g, to read as follows:

**ARTICLE 2G. STATE REFUNDING BOND ACT.**

**§13-2G-1. Short title.**

1 This article shall be known and may be cited as the  
2 “State Refunding Bond Act.”

**§13-2G-2. Definitions.**

1 As used in this article, unless the context otherwise  
2 requires:

3 (a) “Bonds” means general obligation bonds, review  
4 bonds, notes or other debt instruments issued by the  
5 state, a state agency or a state authority.

6 (b) “Code” means the code of West Virginia, one  
7 thousand nine hundred thirty-one as amended.

8 (c) “Legislature” means the Legislature of this state.

9 (d) “Refunding bonds” means bonds, notes or other  
10 debt instruments issued to refund all or any part of  
11 general obligation bonds, revenue bonds, notes or other  
12 debt instruments heretofore or hereafter issued or  
13 lawfully assumed by the state, a state agency or a state  
14 authority pursuant to the provisions of this code.

15 (e) “State” means the state of West Virginia, a state  
16 agency or a state authority.

17 (f) “State agency” means any office, department,  
18 cabinet, board, commission, entity, bureau, division,  
19 public corporation, agency, or instrumentality of the  
20 state authorized to issue bonds.

21 (g) “State authority” means any authority authorized  
22 to issue bonds, including, but without limitations, the  
23 University of West Virginia board of trustees and the  
24 board of directors of the state college system.

25 (h) "Swap agreement" means an agreement which is  
 26 a rate swap agreement, basis swap, forward rate  
 27 agreement, commodity swap, interest rate opinion,  
 28 forward foreign exchange agreement, rate cap agree-  
 29 ment, rate floor agreement, rate collar agreement,  
 30 currency swap agreement, cross-currency rate swap  
 31 agreement, currency option, any similar agreement or  
 32 any combination of the foregoing.

**§13-2G-3. Issuance of refunding bonds.**

1 The state may, in the manner and subject to the  
 2 limitations and conditions contained in this article, issue  
 3 its refunding bonds, at a public or private sale, for the  
 4 purpose of refunding the bonds of the state then  
 5 outstanding, including the payment of any redemption  
 6 premium thereon and any interest accrued or to accrue  
 7 to the date of redemption of such bonds. A determina-  
 8 tion by the state that any refunding is advantageous or  
 9 necessary, or that any of the outstanding obligations  
 10 should be called for redemption on the first or any  
 11 subsequent available redemption date or permitted to  
 12 remain outstanding until their respective dates of  
 13 maturity, shall be conclusive: *Provided*, That a determi-  
 14 nation by the state to issue its refunding bonds as  
 15 provided in this article is subject to the provisions of the  
 16 debt management act set forth in article six-a, chapter  
 17 twelve of this code.

**§13-2G-4. Security for refunding bonds.**

1 Refunding bonds may be secured by a pledge of: (a)  
 2 The same source of security as the bonds to be refunded;  
 3 or (b) such other security as the state may lawfully  
 4 pledge, or both.

**§13-2G-5. Principal amount, use of sinking and reserve funds.**

1 (a) The total amount of refunding bonds to be issued  
 2 under this chapter shall be an amount sufficient to effect  
 3 the refunding and may include an amount sufficient to  
 4 pay (1) the principal amount outstanding of the bonds  
 5 to be refunded, (2) interest accrued or to accrue to the  
 6 date of maturity or the date of redemption of the bonds

7 to be refunded (which need not necessarily be on the  
8 first available redemption date), (3) any redemption  
9 premiums to be paid thereon, (4) any reasonable  
10 expenses incurred in connection with such refunding  
11 and (5) any other reasonable costs deemed appropriate  
12 by the state, including without limitation, the expenses  
13 of preparing and delivering the refunding bonds, legal  
14 fees, financial advisor fees, consultant fees, and other  
15 expenses incurred in connection with the issuance, sale  
16 and delivery of the refunding bonds.

17 (b) Any money in a sinking fund or reserve fund or  
18 other fund for the bonds to be refunded may be used  
19 to pay the principal of, premium, if any, or interest on  
20 the outstanding bonds to be refunded or may be  
21 deposited in a sinking fund or reserve fund or other fund  
22 for the refunding bonds.

**§13-2G-6. Terms of refunding bonds; time, place and amount of payments.**

1 Upon determining the issue of such refunding bonds,  
2 the state shall, by resolution, authorize the issuance of  
3 such bonds in an amount not exceeding the amount  
4 permitted by this article, fix the date thereof, the rate  
5 or rates of interest which such bonds shall bear, when  
6 and where they are payable.

**§13-2G-7. Sale of refunding bonds at above or below par value.**

1 All refunding bonds issued by the state may be sold  
2 at a price equal to, above or below par value and  
3 accrued interest as the state may direct. Refunding  
4 bonds may also be sold at a zero (0) rate of interest or  
5 at an original issue discount.

**§13-2G-8. Swap agreements.**

1 The state may from time to time enter into one or  
2 more swap agreements that it determines to be neces-  
3 sary or desirable in connection with, or incidental to, or  
4 in lieu of the issuance of its refunding bonds. Swap  
5 agreements entered into by the state shall contain such  
6 provisions, including payment, term, security, default  
7 and remedy provisions, and shall be with such parties,

8 as the state shall determine to be necessary or desirable  
9 after due consideration to the creditworthiness of such  
10 parties.

**§13-2G-9. Certain provisions of the code or act of Legislature to apply to refunding bonds.**

1 All the provisions of this code or any act of the  
2 Legislature, relating to bonds issued for original  
3 indebtedness and insofar as such provisions may be  
4 applicable, shall apply to the same extent and with  
5 equal force and effect to refunding bonds issued under  
6 the provisions of this article.

**§13-2G-10. Provision for payment of the bonds to be refunded.**

1 (a) It is the intention of this article to authorize the  
2 state to issue bonds for the purpose of refunding  
3 outstanding bonds without thereby contracting any  
4 additional indebtedness, and it shall be conditional upon  
5 the delivery of any refunding bonds that sufficient funds  
6 are held in trust to provide for the payment of the  
7 principal of, premium, if any, and interest on the bonds  
8 to be refunded. It is the further intention of this article  
9 that any amounts received by the issuance of any  
10 refunding bonds pursuant to this article be used solely  
11 for the purposes set forth in subsection (a), section five  
12 of this article and not be used for incurrence of  
13 additional debt.

14 (b) For all purposes of this section, bonds shall be  
15 considered to have been canceled and paid in advance  
16 of their due date or date of redemption if there shall  
17 have been deposited in trust for the benefit of holders  
18 of the bonds to be refunded:

19 (1) Moneys, sufficient to pay when and as due all  
20 amounts of principal and interest payable on such  
21 bonds; or

22 (2) Direct obligations of the United States of America  
23 or the state, or obligations fully and irrevocably secured  
24 as to the payment of both principal and interest by such  
25 direct obligations the payment on which when due will  
26 provide moneys, sufficient to pay when and as due all

27 amounts of principal and interest payable on such  
28 bonds.

29 (c) All such amounts shall be set aside and held in  
30 trust and irrevocably dedicated solely to the payment of  
31 such bonds, except that amounts in excess of the  
32 amounts required for the payment of the bonds so  
33 refunded may be applied to the payment of costs related  
34 to the issuance, carrying, insuring or servicing the  
35 refunding bonds, including costs of credit or market  
36 enhancement services, such as letters of credit, remar-  
37 keting arrangements and similar services. Any amount  
38 deposited pursuant to this section may include amounts  
39 already held on deposit in trust for the payment of the  
40 bonds to be refunded.

**§13-2G-11. Bonds previously issued by the board of regents.**

1 In connection with or incident to the refunding of any  
2 bonds previously issued by the board of regents pursu-  
3 ant to any prior enactment of chapter eighteen of the  
4 code, or the board of regents predecessor in interest, the  
5 University of West Virginia board of trustees and the  
6 board of directors of the state college system, as the  
7 transferees of all powers, duties and authorities of the  
8 board of regents pursuant to chapter eighteen-b of the  
9 code, are authorized to make one or more written  
10 agreements with regard to which entity is obligated to  
11 provide for the payment of such bonds previously issued  
12 by the board of regents and with regard to the allocation  
13 of revenues to be dedicated to the payment of refunding  
14 bonds.

**§13-2G-12. Article sufficient authority for issuing refunding bonds.**

1 This article shall, without reference to any other act  
2 of the Legislature, be full authority for the issuance, sale  
3 and exchange of bonds in this article authorized. No  
4 order, ordinance, resolution or proceeding in respect to  
5 the issuance of any bonds hereunder shall be necessary  
6 except such as are required by this article. No publi-  
7 cation of any notice, order, ordinance or proceeding  
8 relating to the issuance of such bonds shall be necessary.

**§13-2G-13. Issuance without election or creation of a new debt.**

1       The issuance, sale or exchange of bonds authorized in  
2       this article may be had without an election and shall not  
3       be deemed to create a new debt as long as provision has  
4       been made to pay the principal of, premium, if any, and  
5       interest on the bonds to be refunded as provided in  
6       section seven of this article.

**§13-2G-14. Bonds exempt from taxation.**

1       All bonds of the state, a state agency or state authority  
2       issued hereunder shall be exempt from all state, county,  
3       and municipal taxes, and the exception shall include,  
4       income inheritance and property taxes.



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

*Lomer Heck*

Chairman Senate Committee

*Ernest C. Moore*

Chairman House Committee

Originating in the House.

Takes effect from passage.

*Parrell E. Holmes*

Clerk of the Senate

*Donald L. Hoopp*

Clerk of the House of Delegates

*Walt Burdette*

President of the Senate

*B. B. C. C.*

Speaker of the House of Delegates

The within *is approved* this the *27<sup>th</sup>*  
day of *March*, 1992.

*Gaston Caperton*

Governor

PRESENTED TO THE

GOVERNOR

Date 3/19/92

Time 2:41 pm