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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

1st Extraordinary Session, 2001

ENROLLED

SENATE BILL NO. 1007

(By Senator Craig, et al)

PASSED April 23, 2001

In Effect From Passage

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Senate Bill No. 1007

(BY SENATORS CRAIGO, PLYMALE AND JACKSON)

[Passed April 23, 2001; in effect from passage.]

AN ACT to amend and reenact sections thirteen, fourteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two and twenty-three, article twenty-three, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to higher education revenue bonds generally; uses for bond proceeds, including motor vehicle parking facilities; removing certain requirement on bond trustee; authorizing gross revenues of facilities to be pledged; and authorizing certain fees to be paid from bond proceeds.

Be it enacted by the Legislature of West Virginia:

That sections thirteen, fourteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two and twenty-three, article twenty-three, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 23. ADDITIONAL POWERS, DUTIES AND RESPONSIBILITIES OF GOVERNING BOARDS OF STATE INSTITUTIONS OF HIGHER EDUCATION.

§18-23-13. Construction and operation of dormitories, housing facilities, food service facilities and motor vehicle parking facilities for teachers and students.

1 The governing boards are hereby authorized to provide,
2 construct, erect, improve, equip, maintain and operate
3 dormitories, housing facilities, food service facilities and
4 motor vehicle parking facilities on land owned by the state
5 for students or teachers at the various state institutions of
6 higher education under their control and the cost of
7 construction, erection, improvement or equipment may be
8 payable by means of or with the proceeds of the revenue
9 bonds hereinafter authorized. The governing boards have
10 power and authority to employ engineering, architectural
11 and construction experts and other employees as may be
12 necessary in their judgment and fix their compensation, all
13 of whom shall do the work as the governing boards direct,
14 all of which shall be included as part of the cost of con-
15 struction and equipment thereof.

§18-23-14. Construction and operation of gymnasiums, etc.

1 The governing boards, within their discretion, are hereby
2 authorized to provide, construct, erect, improve, equip,
3 maintain and operate gymnasiums or stadia for athletic
4 games, contests or exhibitions or physical training,
5 dormitories, housing facilities, food service facilities and
6 motor vehicle parking facilities, swimming pools or such
7 other structures or buildings, for students, teachers,
8 officers and employees at the various state institutions of
9 higher education under their control and management
10 subject to the provisions and limitations of sections
11 thirteen, fifteen, sixteen, seventeen, eighteen, nineteen,
12 twenty, twenty-one, twenty-two, twenty-three and
13 twenty-four of this article.

§18-23-16. Cost of dormitories, housing facilities, food service facilities and motor vehicle parking facilities to be paid from proceeds of revenue bonds.

1 The governing boards may pay the cost, as defined in
2 sections thirteen through twenty-four, inclusive, of this
3 article, of any one or more of the dormitories, housing
4 facilities, food service facilities and motor vehicle parking
5 facilities out of the proceeds of revenue bonds of the state.
6 The governing boards are authorized to issue revenue
7 bonds of the state by a resolution of the board which shall
8 recite an estimate by the board of the cost, the principal
9 and interest of which bonds shall be payable solely from
10 the special fund or funds herein provided for the payment.
11 The board, after any issue of bonds or simultaneously
12 therewith, may issue further issues of bonds to pay the cost
13 of any other one or more of the dormitories, housing
14 facilities, food service facilities and motor vehicle parking
15 facilities in the manner and subject to all of the provisions
16 herein contained as to the bonds first mentioned in this
17 section. All these bonds shall have and are hereby de-
18 clared to have all the qualities of negotiable instruments
19 under the Uniform Commercial Code. These bonds shall
20 bear interest at such rates, payable at such times, and shall
21 mature in not more than thirty years from their date or
22 dates and may be made redeemable at the option of the
23 state, to be exercised by the governing boards, at a price
24 and under terms and conditions as they may fix prior to
25 the issuance of the bonds. They shall determine the form
26 of the bonds, which bonds shall be signed by the governor
27 and the president of the appropriate governing board,
28 under the great seal of the state and attested by the
29 secretary of state. In case any of the officers whose signa-
30 tures appear on the bonds shall cease to be officers before
31 the delivery of the bonds, the signatures shall nevertheless
32 be valid and sufficient for all purposes the same as if they
33 had remained in office until the delivery. The governing
34 boards shall fix the denominations of the bonds, the
35 principal and interest of which shall be payable at the

36 office of the treasurer of the state of West Virginia, at the
37 capitol of the state or, at the option of the holder, at some
38 bank or trust company within or outside of the state, to be
39 named in the bonds, in lawful money of the United States
40 of America. The bonds and the interest thereon shall be
41 exempt from taxation by the state of West Virginia or any
42 county, school district or municipality therein. The
43 governing boards may provide for the registration of the
44 bonds in the name of the owner as to principal alone or as
45 to both principal and interest under the terms and condi-
46 tions as the governing boards may determine and shall sell
47 the bonds in such manner as they may determine to be for
48 the best interest of the state, taking into consideration the
49 financial responsibility of the purchaser and the terms and
50 conditions of the purchase and especially the availability
51 of the proceeds of the bonds when required for payment of
52 the cost of the dormitories, housing facilities, food service
53 facilities and motor vehicle parking facilities.

54 The proceeds of the bonds shall be used solely for the
55 payment of the cost of the dormitories, housing facilities,
56 food service facilities and motor vehicle parking facilities
57 and costs of issuance of the bonds, which costs shall be
58 deemed to include the cost of site acquisition or construc-
59 tion thereof, the cost of all property, rights, easements and
60 franchises deemed necessary or convenient therefor and
61 for the improvements determined upon as provided in this
62 article; interest upon bonds prior to and during construc-
63 tion or acquisition and for a reasonable period after
64 completion of construction or of acquisition of the im-
65 provements; engineering, architectural and legal expenses;
66 expense for estimates of cost and of revenues; expenses for
67 plans, specifications and surveys; other expenses necessary
68 or incidental to determining the feasibility or practicabil-
69 ity of the improvements; and other expenses as may be
70 necessary or incidental to the financing herein authorized
71 and the construction or acquisition of the improvements
72 and the placing thereof in operation. The bonds shall be
73 authorized and approved by resolution of the appropriate

74 governing board. If the proceeds of the bonds, by error or
75 otherwise, shall be less than the cost of the dormitories,
76 housing facilities, food service facilities and motor vehicle
77 parking facilities, additional parity bonds may in like
78 manner be issued to provide the amount of the deficit and,
79 unless otherwise provided in the trust agreement hereinaf-
80 ter mentioned, shall be deemed to be of the same issue and
81 shall be entitled to payment from the same fund, without
82 preference or priority of the bonds first issued for the same
83 dormitories, housing facilities, food service facilities and
84 motor vehicle parking facilities. If the proceeds of bonds
85 issued for any dormitories, housing facilities, food service
86 facilities and motor vehicle parking facilities shall exceed
87 the cost thereof, the surplus shall be paid into the fund
88 hereinafter provided for payment of the principal and
89 interest of the bonds. The fund may be used for the
90 purchase of any of the outstanding bonds payable from the
91 fund at the market price, but not exceeding the price, if
92 any, at which the bonds in the same year shall be redeem-
93 able and all bonds redeemed or purchased shall forthwith
94 be cancelled and shall not again be issued.

95 Prior to the preparation of definitive bonds, the govern-
96 ing boards may under like restrictions issue temporary
97 bonds, exchangeable for definitive bonds upon the issu-
98 ance of the latter. The revenue bonds may be issued
99 without any other proceedings or the happening of any
100 other conditions and things than those proceedings,
101 conditions and things which are specified and required by
102 this article or by the constitution of the state.

§18-23-17. Agreements with trustees for bondholders.

1 The governing boards may enter into an agreement or
2 agreements with any trust company or with any bank
3 having trust powers, either within or outside of the state,
4 as trustee for the holders of the bonds issued hereunder,
5 setting forth therein such duties of the state and of the
6 governing boards in respect of the acquisition, construc-
7 tion, erection, improvement, maintenance, operation,

8 repair and insurance of the dormitories, housing facilities,
9 food service facilities and motor vehicle parking facilities,
10 the conservation and application of all moneys, the
11 insurance of moneys on hand or on deposit and the rights
12 and remedies of the trustee and the holders of the bonds,
13 as may be agreed on with the original purchasers of the
14 bonds, and including therein provisions restricting the
15 individual right of action of bondholders as is customary
16 in trust agreements respecting bonds and debentures of
17 corporations, protecting and enforcing the rights and
18 remedies of the trustee and the bondholders and providing
19 for approval by the original purchasers of the bonds, of the
20 appointment of consulting engineers and of the security
21 given by those who contract to make improvements and by
22 any bank or trust company in which the proceeds of bonds
23 or rents, fees or charges shall be deposited and for ap-
24 proval by the consulting engineers of all contracts for
25 improvements. . All expenses incurred in carrying out an
26 agreement may be treated as a part of the cost of mainte-
27 nance, operation and repair of the dormitories, housing
28 facilities, food service facilities and motor vehicle parking
29 facilities affected by the agreement. Any agreement
30 entered into by the governing boards shall be binding in
31 all respects on the governing boards from time to time in
32 accordance with its terms and all the provisions thereof
33 shall be enforceable by appropriate proceedings at law or
34 in equity, or otherwise.

**§18-23-18. Operation and control of fiscal affairs of dormito-
ries, housing facilities, food service facilities and
motor vehicle parking facilities.**

1 The governing boards shall properly maintain, repair,
2 operate, manage and control the fiscal affairs of the
3 dormitories, housing facilities, food service facilities and
4 motor vehicle parking facilities, fix the rates of rents, fees
5 or charges and establish rules and regulations for the use
6 and operation of such dormitories, housing facilities, food
7 service facilities and motor vehicle parking facilities for

8 the welfare of the students or teachers and may make and
9 enter into all contracts or agreements necessary and
10 incidental to the performance of their duties and the
11 execution of their powers under this article.

**§18-23-19. Payment of principal and interest of construction
bonds from revenues of dormitories, housing
facilities, food service facilities, or motor vehicle
parking facilities; redemption of bonds.**

1 Whenever bonds are issued for the construction, erection
2 or equipment of dormitories, housing facilities, food
3 service facilities or motor vehicle parking facilities or for
4 the improvement or equipment of existing dormitories,
5 housing facilities, food service facilities or motor vehicle
6 parking facilities, or for any or all of the purposes, as joint
7 or several projects, for which a single or several issues of
8 bonds may be issued within the discretion of the governing
9 boards, rents, fees and charges shall be fixed, charged and
10 collected in connection with the use or occupancy of, or
11 service to be thereby rendered and furnished by, dormito-
12 ries, housing facilities, food service facilities or motor
13 vehicle parking facilities of the particular state educa-
14 tional institution as the governing board thereof shall
15 determine, and shall be so fixed or adjusted, as to provide
16 a fund sufficient to pay the principal and interest of each
17 issue of bonds and to provide an additional fund to pay the
18 cost of maintaining, repairing, operating and insuring such
19 dormitories, housing facilities, food service facilities or
20 motor vehicle parking facilities. Whenever bonds are
21 issued to finance the construction and erection of dormito-
22 ries, housing facilities, food service facilities or motor
23 vehicle parking facilities, together with additions or
24 extensions to existing dormitories, housing facilities, food
25 service facilities and motor vehicle parking facilities for
26 students or teachers at state institutions of higher educa-
27 tion, either the combined gross revenues derivable from all
28 the dormitories, housing facilities, food service facilities or
29 motor vehicle parking facilities or the separate gross

30 revenues derivable from the dormitories, the housing
31 facilities, the food service facilities or the motor vehicle
32 parking facilities of the particular state institution of
33 higher education as the governing board thereof shall
34 determine, may be pledged to provide a fund sufficient to
35 pay the principal and interest of the issue of bonds and of
36 any other bonds thereafter issued for the same purpose
37 and to provide an additional fund to pay the cost of
38 maintaining, repairing, operating and insuring such
39 dormitories, housing facilities, food service facilities or
40 motor vehicle parking facilities. Except as may otherwise
41 be provided in the trust agreement authorized in section
42 seventeen of this article, the rents, fees and charges from
43 the dormitories, housing facilities, food service facilities or
44 motor vehicle parking facilities for which a single issue of
45 bonds is issued, in an amount sufficient to pay, when due,
46 the principal of, redemption premium, if any, and interest
47 on such bonds shall be transmitted each month to the
48 municipal bond commission and by it placed in a special
49 fund which is hereby pledged to and charged with the
50 payment of the principal of the bonds and the interest
51 thereon and to the redemption or repurchase of the bonds,
52 the special fund to be a fund for all these bonds without
53 distinction or priority of one over another. The moneys in
54 the special fund, less any reserve for payment of interest,
55 if not used by the municipal bond commission within a
56 reasonable time for the purchase of bonds for cancellation
57 at a price not exceeding the market price and not exceed-
58 ing the redemption price, shall be applied to the redemp-
59 tion by lot of any bonds which by their terms are then
60 redeemable, at the redemption price then applicable:
61 *Provided*, That if said revenue bonds are sold to and
62 purchased by the United States of America or any federal
63 or public agency or department created under and by
64 virtue of the laws of the United States of America, then at
65 the option of the United States of America or such federal
66 or public agency or department in lieu of the moneys being
67 transmitted to the municipal bond commission and by it

68 placed in a special fund the rents, fees and charges from
69 the dormitories, housing facilities, food service facilities or
70 motor vehicle parking facilities, in an amount sufficient to
71 pay, when due, the principal of, redemption premium, if
72 any, and interest on the bonds may be transmitted and
73 paid to a trustee designated and named by the United
74 States of America or a federal or public agency or depart-
75 ment in its agreement and contract with the appropriate
76 governing board, for the payment of the principal of such
77 bonds and the interest thereon, under such terms and
78 conditions as may be agreed upon.

§18-23-20. When dormitories, housing facilities, food service facilities, or motor vehicle parking facilities become property of state.

1 When the particular bonds for any dormitory or dormi-
2 tories, housing facilities, food service facilities or motor
3 vehicle parking facilities and the interest on the bonds
4 shall have been paid or a sufficient amount has been
5 provided for their payment and shall continue to be held
6 for that purpose, the dormitories, housing facilities, food
7 service facilities or motor vehicle parking facilities shall
8 thereafter be exclusively the property of the state of West
9 Virginia and thereafter the rents, fees and charges col-
10 lected for the use or occupancy of, or service rendered and
11 furnished by, the dormitories, housing facilities, food
12 service facilities or motor vehicle parking facilities shall be
13 paid into the state board of investments as provided by the
14 provisions of section two, article two, chapter twelve of
15 this code, as amended, and used and expended for the
16 benefit of the institution where collected: *Provided*, That
17 nothing in this section precludes any governing board from
18 pledging the rents, fees and charges to pay the principal
19 and interest on any bonds thereafter issued to construct
20 new or to improve existing dormitories, housing facilities,
21 food service facilities or motor vehicle parking facilities
22 pursuant to section nineteen of this article. The rents, fees
23 and charges shall be paid as may be provided in a trust

24 agreement authorized pursuant to section seventeen of this
25 article and in the absence of such trust agreement as
26 provided in section nineteen of this article.

§18-23-21. State debt not to be incurred for dormitories, housing facilities, food service facilities, or motor vehicle parking facilities; federal and private assistance; provisions separable.

1 Nothing in these sections dealing with dormitories,
2 housing facilities, food service facilities or motor vehicle
3 parking facilities may be so construed or interpreted as to
4 authorize or permit the incurring of state debt of any kind
5 or nature as contemplated by the constitution of this state
6 in relation to the state debt. The dormitories, housing
7 facilities, food service facilities or motor vehicle parking
8 facilities herein are of the character described as
9 self-liquidating projects under the laws of this state.

10 Any governing board authorized to issue bonds under
11 the provisions of this article is authorized and empowered
12 to accept loans or grants or temporary advances for the
13 purpose of paying part or all of the cost of construction of
14 the dormitories, housing facilities, food service facilities or
15 motor vehicle parking facilities and the other purposes
16 herein authorized, from the United States of America or a
17 federal or public agency or department of the United
18 States or any private agency, corporation or individual,
19 which temporary advances may be repaid out of the
20 proceeds of the bonds authorized to be issued under the
21 provisions of this article and to enter into the necessary
22 contracts and agreements to carry out the purposes hereof
23 with the United States of America or a federal or public
24 agency or department of the United States or with any
25 private agency, corporation or individual. The provisions
26 and parts of this section are separable and are not matters
27 of mutual essential inducement and it is the intention to
28 confer the whole or any part of the powers herein provided
29 for and if any of the sections or provisions, or parts
30 thereof, are for any reason illegal or invalid, it is the

31 intention that the remaining sections and provisions or
32 parts thereof shall remain in full force and effect.

§18-23-22. Sections regarded as supplementary.

1 Sections thirteen through twenty-four, inclusive, of this
2 article provide an additional and alternative method for
3 the doing of the things authorized hereby and shall be
4 regarded as supplementary and additional to powers
5 conferred by other laws: *Provided*, That when any revenue
6 bonds are issued hereunder for the purposes provided by
7 sections thirteen through twenty-four, inclusive, of this
8 article, for the benefit of any particular state institution of
9 higher education, no dormitories, housing facilities, food
10 service facilities or motor vehicle parking facilities shall
11 thereafter be constructed, built or erected at the state
12 institution of higher education until the appropriate
13 governing board, by investigation had thereon, under the
14 rules as it may prescribe, determines that there is an
15 imperative public need for the construction, building or
16 erection of the dormitories, housing facilities, food service
17 facilities or motor vehicle parking facilities and that their
18 construction, building or erection and subsequent mainte-
19 nance or operation will not materially injure the revenues
20 of and from any dormitories, housing facilities, food
21 service facilities or motor vehicle parking facilities
22 constructed, built, erected, maintained or operated at the
23 state institution of higher education under the provisions
24 of sections thirteen to twenty-four, inclusive, of this
25 article.

**§18-23-23. Approval of dormitories, housing facilities, food
service facilities or motor vehicle parking facili-
ties.**

1 It is not necessary to secure from any officer or board
2 not named in sections thirteen through twenty-four,
3 inclusive, of this article any approval or consent or any
4 certificate or finding or to hold any election or to take any
5 proceedings whatever, either for the acquisition, construc-

6 tion or erection of such dormitories, housing facilities,
7 food service facilities or motor vehicle parking facilities,
8 or the improvement thereof, or their maintenance, opera-
9 tion, repair or insurance or for the issuance of bonds
10 hereunder, except such as are prescribed in the sections
11 herein named or are required by the constitution of the
12 state.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within approved bill this the 5
Day of May, 2001.
[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 5/4/01

Time 9:35 AM