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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

1st Extraordinary Session, 2001

ENROLLED

SENATE BILL NO. 1005

(By Senator Tomblin, Mr. President, and ~~_____~~
Sprouse, By Request of the Executive)

PASSED April 23, 2001

In Effect 90 days from Passage

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Senate Bill No. 1005

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

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

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-b; to amend article two-d of said chapter by adding thereto a new section, designated section four-b; to amend and reenact sections three and seven, article twenty-nine-a of said chapter; and to amend and reenact section nine-a, article twenty-two, chapter twenty-nine of said code, all relating generally to use of lottery proceeds; providing for the sale of revenue bonds by the hospital finance authority to fund one or more skilled nursing facilities that are constructed, equipped, staffed and operated by the director of the division of veterans' affairs to house and serve veterans of the United States armed forces who are citizens of the state; exempting the facilities from the certificate of need provisions; and redefining terms.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article one-b; that article two-d of said chapter be amended by adding thereto a new section, designated section four-b; that sections three and seven, article twenty-nine-a of said chapter be amended and reenacted; and that section nine-a, article twenty-two, chapter twenty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 1B. SKILLED NURSING FACILITIES FOR VETERANS OF THE UNITED STATES ARMED FORCES.

§16-1B-1. Legislative findings.

1 The Legislature finds that the health and welfare of the
2 veterans of the armed forces who are citizens of our state
3 will be best served by the establishment of one or more
4 skilled nursing facilities exclusively for these veterans.
5 Furthermore, the Legislature finds that nearly two hun-
6 dred thousand veterans in this state have distinguished
7 themselves with the highest level of participation per
8 capita of any state in the wars fought by this nation.
9 Further, an aging veterans' population which suffers from
10 wartime disabilities and illnesses are, or will be, in need of
11 skilled nursing care.

§16-1B-2. Construction, staffing and operation of one or more skilled nursing facilities for veterans of the armed forces of the United States.

1 The director of veterans affairs shall establish, con-
2 struct, equip and operate one or more skilled nursing
3 facilities to serve the needs of citizens of this state who are
4 veterans of the armed forces of the United States. For
5 each nursing facility established, the director shall appoint
6 a facility administrator and other employees as are
7 necessary to maintain the facility and deliver quality care
8 to residents of the facility.

§16-1B-3. Issuance of bonds by the hospital finance authority; payment of bonds from net profits of the veterans lottery instant scratch-off game.

1 The director shall request that revenue bonds, not
2 exceeding the principal amount of ten million dollars, be
3 issued by the West Virginia hospital finance authority
4 under provisions of section seven, article twenty-nine-a of
5 this chapter. Net profit from the veterans lottery instant
6 scratch-off game as authorized by section nine-a, article
7 twenty-two, chapter twenty-nine of this code and other
8 revenues that the Legislature may from time to time
9 appropriate shall pay the principal and interest obliga-
10 tions of the bonds.

§16-1B-4. Eligibility for service; legislative rule.

1 In order to qualify for service and residency in a skilled
2 nursing facility established under this article, an applicant
3 must have continuously been a citizen of the state of West
4 Virginia for twelve consecutive months and must have
5 performed active duty in an active component of the
6 armed forces or performed active service in a reserve
7 component of the armed forces for at least twelve consecu-
8 tive months. The director shall propose a legislative rule
9 further defining and limiting eligibility for services and
10 residency under this article.

ARTICLE 2D. CERTIFICATE OF NEED.

§16-2D-4b. Certificate of need; exemption for veterans skilled nursing facility construction, operation and maintenance.

1 Notwithstanding any provision of this article and any
2 rule issued by the state agency, a certificate of need is not
3 required for the construction, renovation, maintenance or
4 operation of one or more state veterans skilled nursing
5 facilities established pursuant to the provisions of article
6 one-b of this chapter.

ARTICLE 29A. WEST VIRGINIA HOSPITAL FINANCE AUTHORITY ACT.

§16-29A-3. Definitions.

1 As used in this article, unless the context clearly requires
2 a different meaning:

3 (1) "Authority" means the West Virginia hospital finance
4 authority created by section four of this article, the duties,
5 powers, responsibilities and functions of which are
6 specified in this article;

7 (2) "Board" means the West Virginia hospital finance
8 board created by section four of this article, which shall
9 manage and control the authority;

10 (3) "Bond" means a revenue bond issued by the author-
11 ity to effect the purposes of this article;

12 (4) "Construction" means and includes new construc-
13 tion, reconstruction, enlargement, improvement and
14 providing furnishings or equipment;

15 (5) "Direct provider of health care" means a person or
16 organization whose primary current activity is the provi-
17 sion of health care to individuals and includes a licensed
18 or certified physician, osteopath, dentist, nurse, podiatrist
19 or physician's assistant or an organization comprised of
20 these health professionals or employing these health
21 professionals;

22 (6) "Hospital" means a corporation, association, institu-
23 tion or establishment for the care of those who require
24 medical treatment, which may be a public or private
25 corporation or association, or state-owned or operated
26 establishment and specifically includes nursing homes
27 which are licensed under chapter sixteen of this code or
28 those facilities certified under the Social Security Act as
29 intermediate care facilities for the mentally retarded;

30 (7) "Hospital facilities" means any real or personal
31 property suitable and intended for, or incidental or

32 ancillary to, use by a hospital and includes: Outpatient
33 clinics; laboratories; laundries; nurses', doctors' or interns'
34 residences; administration buildings; facilities for research
35 directly involved with hospital care; maintenance, storage
36 or utility facilities; parking lots and garages; and all
37 necessary, useful or related equipment, furnishings and
38 appurtenances and all lands necessary or convenient as a
39 site for the foregoing and specifically includes any capital
40 improvements to any of the foregoing. "Hospital facili-
41 ties" specifically includes office facilities not less than
42 eighty percent of which are intended for lease to direct
43 providers of health care and which are geographically or
44 functionally related to one or more other hospital facili-
45 ties, if the authority determines that the financing of the
46 office facilities is necessary to accomplish the purposes of
47 this article;

48 (8) "Hospital loan" means a loan made by the authority
49 to a hospital and specifically includes financings by the
50 authority for hospital facilities pursuant to lease-purchase
51 agreements, installment sale or other similar agreements;

52 (9) "Note" means a short-term promise to pay a specified
53 amount of money, payable and secured as provided
54 pursuant to this article and issued by the authority to
55 effect the purposes of this article;

56 (10) "Project costs" means the total of the reasonable or
57 necessary costs incurred for carrying out the works and
58 undertakings for the acquisition or construction of hospi-
59 tal facilities under this article. "Project costs" includes,
60 but is not limited to, all of the following costs: The costs
61 of acquisition or construction of the hospital facilities;
62 studies and surveys; plans, specifications, architectural
63 and engineering services; legal, organization, marketing or
64 other special services; financing, acquisition, demolition,
65 construction, equipping and site development of new and
66 rehabilitated buildings; rehabilitation, reconstruction,
67 repair or remodeling of existing buildings; interest and
68 carrying charges during construction and before full

69 earnings are achieved and operating expenses before full
70 earnings are achieved or a period of one year following the
71 completion of construction, whichever occurs first; and a
72 reasonable reserve for payment of principal of and interest
73 on bonds or notes of the authority. "Project costs" shall
74 also include reimbursement of a hospital for the foregoing
75 costs expended by a hospital from its own funds or from
76 money borrowed by the hospital for such purposes before
77 issuance and delivery of bonds or notes by the authority
78 for the purpose of providing funds to pay the project costs.
79 "Project costs" also specifically includes the refinancing of
80 any existing debt of a hospital necessary in order to permit
81 the hospital to borrow from the authority and give ade-
82 quate security for the hospital loan. The determination of
83 the authority with respect to the necessity of refinancing
84 and adequate security for a hospital loan is conclusive;

85 (11) "Revenue" means any money or thing of value
86 collected by, or paid to, the authority as principal of or
87 interest, charges or other fees on hospital loans or any
88 other collections on hospital loans made by the authority
89 to hospitals to finance, in whole or in part, the acquisition
90 or construction of any hospital facilities or other money or
91 property which is received and may be expended for or
92 pledged as revenues pursuant to this article;

93 (12) "Veterans skilled nursing facility" means a skilled
94 nursing care facility constructed and operated to serve the
95 needs of veterans of the armed forces of the United States
96 who are citizens of this state.

§16-29A-7. Bonds and notes.

1 (a) The authority periodically may issue its negotiable
2 bonds and notes in a principal amount which, in the
3 opinion of the authority, shall be necessary to provide
4 sufficient funds for the making of hospital loans, including
5 temporary loans during the construction of hospital
6 facilities, for the payment of interest on bonds and notes

7 of the authority during construction of hospital facilities
8 for which the hospital loan was made and for a reasonable
9 time thereafter and for the establishment of reserves to
10 secure those bonds and notes.

11 (b) The authority periodically may issue renewal notes,
12 may issue bonds to pay notes and, if it considers refunding
13 expedient, to refund or to refund in advance bonds or
14 notes issued by the authority by the issuance of new bonds
15 pursuant to the requirements of section thirteen of this
16 article.

17 (c) The authority may, upon concurrent resolution
18 passed by the Legislature, authorize the issuance of
19 negotiable bonds and notes in a principal amount which
20 are necessary to provide sufficient funds for the construc-
21 tion, reconstruction, renovation and maintenance of one or
22 more skilled nursing facilities that will only serve the
23 skilled nursing needs of West Virginia veterans who have
24 performed active duty in an active component of the
25 armed forces or performed active service in a reserve
26 component of the armed forces. These bonds issued by the
27 authority may not exceed ten million dollars. The reve-
28 nues pledged for the repayment of principal and interest
29 of these bonds shall include the net profit of the veterans
30 instant lottery scratch-off game authorized by section
31 nine-a, article twenty-two, chapter twenty-nine of this
32 code.

33 (d) Except as may otherwise be expressly provided by
34 the authority, every issue of its notes or bonds shall be
35 special obligations of the authority, payable solely from
36 the property, revenues or other sources of or available to
37 the authority pledges therefor.

38 (e) The bonds and the notes shall be authorized by
39 resolution of the authority, shall bear the date and shall
40 mature at time or times, in the case of any such note or any
41 renewals thereof, not exceeding seven years from the date

42 of issue of the original note and in the case of any bond not
43 exceeding fifty years from the date of issue, as the resolu-
44 tion may provide. The bonds and notes shall bear interest
45 at rate or rates, be in a denomination, be in a form, either
46 coupon or registered, carry registration privileges, be
47 payable in the medium of payment and at place or places
48 and be subject to the terms of redemption as the authority
49 may authorize. The bonds and notes of the authority may
50 be sold by the authority, at public or private sale, at or not
51 less than the price the authority determines. The bonds
52 and notes are executed by the chairman and vice chairman
53 of the board, both of whom may use facsimile signatures.
54 The official seal of the authority or a facsimile thereof
55 shall be affixed to or printed on each bond and note and
56 attested, manually or by facsimile signature, by the
57 secretary-treasurer of the board, and any coupons at-
58 tached to any bond or note shall bear the signature or
59 facsimile signature of the chairman of the board. In case
60 any officer whose signature, or a facsimile of whose
61 signature, appears on any bonds, notes or coupons ceases
62 to be an officer before delivery of the bonds or notes, such
63 signature or facsimile is nevertheless sufficient for all
64 purposes the same as if he or she had remained in office
65 until the delivery; and, in case the seal of the authority has
66 been changed after a facsimile has been imprinted on the
67 bonds or notes, the facsimile seal will continue to be
68 sufficient for all purposes.

69 (f) A resolution authorizing bonds or notes or an issue of
70 bonds or notes under this article may contain provisions,
71 which are a part of the contract with the holders of the
72 bonds or notes, as to any or all of the following:

73 (1) Pledging and creating a lien on all or any part of the
74 fees and charges made or received or to be received by the
75 authority, all or any part of the moneys received in
76 payment of hospital loans and interest on hospital loans
77 and all or any part of other moneys received or to be
78 received, to secure the payment of the bonds or notes or of

79 any issue of bonds or notes, subject to those agreements
80 with bondholders or noteholders which then exist;

81 (2) Pledging and creating a lien on all or any part of the
82 assets of the authority, including notes, deeds of trust and
83 obligations securing the assets, to secure the payment of
84 the bonds or notes or of any issue of bonds or notes,
85 subject to those agreements with bondholders or note
86 holders which then exist;

87 (3) Pledging and creating a lien on any loan, grant or
88 contribution to be received from the federal, state or local
89 government or other source;

90 (4) The use and disposition of the income from hospital
91 loans owned by the authority and payment of the principal
92 of and interest on hospital loans owned by the authority;

93 (5) The setting aside of reserves or sinking funds and the
94 regulation and disposition thereof;

95 (6) Limitations on the purpose to which the proceeds of
96 sale of bonds or notes may be applied and pledging the
97 proceeds to secure the payment of the bonds or notes or of
98 any issue of the bonds or notes;

99 (7) Limitations on the issuance of additional bonds or
100 notes and the terms upon which additional bonds or notes
101 may be issued and secured;

102 (8) The procedure by which the terms of a contract with
103 the bondholders or noteholders may be amended or
104 abrogated, the amount of bonds or notes the holders of
105 which must consent thereto and the manner in which the
106 consent may be given; and

107 (9) Vesting in a trustee or trustees the property, rights,
108 powers, remedies and duties which the authority considers
109 necessary or convenient.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICES.

ARTICLE 22. STATE LOTTERY ACT.**§29-22-9a. Veterans instant lottery scratch-off game.**

1 (a) Beginning the first day of September, two thousand,
2 the commission shall establish an instant lottery scratch-
3 off game designated as the veterans benefit game, which is
4 offered by the lottery.

5 (b) Notwithstanding the provisions of section eighteen
6 of this article, and subject to the provisions of subsection
7 (d) of this section, all net profits received from the sale of
8 veterans benefit game lottery tickets, materials and games
9 are deposited with the state treasurer into the veterans
10 lottery fund created under this section, and the Legislature
11 may make appropriations from this fund for payment of
12 principal and interest for revenue bonds issued under
13 provisions of section seven, article twenty-nine-a, chapter
14 sixteen of this code: *Provided*, That once the payment of
15 the principal and interest is paid in full for the construc-
16 tion of the initial veterans skilled nursing facility, the
17 Legislature may appropriate from the fund created under
18 this section moneys for the construction, equipping and
19 operation of additional skilled nursing facilities for
20 veterans of the armed forces of the United States military:
21 *Provided, however*, That after the payment of the above-
22 mentioned items, the Legislature may appropriate any
23 excess funds to the general revenue fund.

24 (c) Before appropriation of any of the net profits derived
25 from the veterans benefit game for the uses set forth in this
26 section, the Legislature shall first determine that the state
27 has met all debt obligations for which lottery profits have
28 been pledged for that fiscal year.

29 (d) There is hereby created in the state treasury a special
30 revenue fund designated and known as the veterans lottery
31 fund which shall consist of all revenues derived from the
32 veterans benefit game, any appropriations to the fund by
33 the Legislature and all interest earned from investment of
34 the fund and any gifts, grants or contributions received by

35 the fund. Revenues received by the veterans lottery fund
36 shall be deposited in the West Virginia consolidated
37 investment pool with the West Virginia investment
38 management board, with the interest income a proper
39 credit to all these funds.

40 (e) The commission shall change the design or theme of
41 the veterans benefit game regularly so that the game
42 remains competitive with the other instant lottery scratch-
43 off games offered by the commission. The tickets for the
44 instant lottery game created in this section shall clearly
45 state that the profits derived from the game are being used
46 to benefit veterans in this state.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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

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

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

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

The within *is* approved..... this the *10th*.....
Day of *May*....., 2001.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

5/4/01

Time

9:35 AM