

No: 1875

APPROVED AND SIGNED BY THE GOVERNOR

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Date 3-26-83

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



# ENROLLED

*Com. sub. for*  
HOUSE BILL No. 1875

(By Mr. *Livens*)



Passed *March 12,* 1983

In Effect *From* Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 1875**

(By MR. GIVENS)

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[Passed March 12, 1983; in effect from passage.]

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AN ACT to amend and reenact sections four-b and four-c, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend said article by adding thereto eighteen new sections, designated sections twenty-six through forty-three, all relating to the creation of and deposit into a medical center revenue fund of certain fees, charges and rentals collected at the West Virginia University medical center; authorizing leasing activities for public educational and patient services purposes; authorizing issuance of revenue bonds and notes by the West Virginia board of regents to finance the cost of acquiring, constructing, reconstructing, remodeling, repairing, improving, extending, equipping and furnishing the buildings and other physical facilities of the West Virginia University medical center, with the proceeds of any bond or note issuance to be expendable after appropriation by the Legislature; authorizing payment of principal of and premium, if any, and interest on said revenue bonds and notes from all or any portion of the moneys from time to time on deposit in said medical center revenue fund and of any other gross revenues, excluding tuition fees, derived from said medical center; authorizing acceptance of federal and pri-

vate assistance; specifying that bonds and notes issued are not a debt of nor pledge of faith and credit of the state, any county, municipality or political subdivision; providing for bonds and notes, after issuance, to be negotiable instruments and to be exempt from taxation by the state, any county, municipality, political subdivision or agency thereof, with exception; providing for severability and interpretation of sections of the act; and effective date.

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

That sections four-b and four-c, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto eighteen new sections, designated sections twenty-six through forty-three, inclusive, all to read as follows:

**ARTICLE 11. WEST VIRGINIA UNIVERSITY.**

**§18-11-4b. Authority to fix and collect fees and charges at medical center; disposition thereof.**

1 The West Virginia board of regents shall have authority to  
2 collect from patients at the West Virginia University medical  
3 center such hospital, clinic, laboratory and other fees and  
4 charges as may be fixed by the board of regents from time to  
5 time. All such fees and charges collected at the medical center  
6 exclusive of physician and dentist fees shall be paid into a  
7 medical center revenue fund, which is hereby created in the  
8 state treasury, and shall be used solely for the construction,  
9 maintenance and operation of the medical center, including  
10 the payment of the principal of and premium, if any, and  
11 interest on revenue bonds and notes issued by the board of  
12 regents for the purpose of financing the cost of acquiring, con-  
13 structing, reconstructing, remodeling, repairing, improving, ex-  
14 tending, equipping or furnishing the buildings and other phy-  
15 sical facilities of said medical center.

**§18-11-4c. Authority to lease portions of medical center to operate supply rooms at medical center; fixing, collection and disposition of charges.**

1 The West Virginia board of regents shall have authority to

2 lease, as lessor, to any person for purposes directly associated  
3 with public educational or patient services, any portion of the  
4 West Virginia University medical center and to operate at the  
5 medical center supply rooms for the sale or rental of equip-  
6 ment to patients, students, faculty and university departments  
7 and for the furnishing to patients, students, faculty and uni-  
8 versity departments, medical, dental and pharmaceutical sup-  
9 plies and laundry and other services. The board of regents  
10 shall have authority to fix the terms of any such lease or rental  
11 agreements and the prices and charges to be collected for such  
12 lease of any such portion of the medical center or the sale,  
13 rental or furnishing of any such equipment, supplies and ser-  
14 vices. All moneys collected under the authority of this section  
15 shall be paid into the medical center revenue fund heretofore  
16 created in the state treasury under the provisions of section  
17 four-b of this article and shall be used solely for the construc-  
18 tion, maintenance and operation of the medical center, includ-  
19 ing the payment of the principal of and premium, if any, and  
20 interest on revenue bonds and notes issued by the board of  
21 regents for the purpose of financing the cost of acquiring, con-  
22 structing, reconstructing, remodeling, repairing, improving,  
23 extending, equipping or furnishing the buildings and other phy-  
24 sical facilities of said medical center.

**§18-11-26. Definition of board; cost of acquiring, constructing, re-  
constructing, remodeling, repairing, improving, ex-  
tending, equipping or furnishing the West Virginia  
University medical center to be financed by revenue  
bonds or notes.**

1 (1) Notwithstanding the provisions of section one, article  
2 one of this chapter, the word "board," when used in sections  
3 twenty-six through forty-two, inclusive, of this article, means  
4 the West Virginia board of regents.

5 (2) For the purpose of financing the cost of acquiring, con-  
6 structing, reconstructing, remodeling, repairing, improving, ex-  
7 tending, equipping or furnishing the buildings or other physical  
8 facilities of the West Virginia University medical center, the  
9 board periodically may issue negotiable bonds or notes of the  
10 state in a principal amount which, in the opinion of the board,

11 shall be necessary to finance said costs, and the proceeds of  
12 the issuance of any such bonds or notes shall be expendable  
13 after appropriation thereof by the Legislature. Such cost shall  
14 include, but not be limited to, the following: The cost of such  
15 acquisition, construction, reconstruction, remodeling, repair,  
16 improvement, extension, equipment or furnishing; studies and  
17 surveys; plans, specifications, architectural and engineering  
18 services; legal, organization, marketing or other special ser-  
19 vices; interest and carrying charges prior to, during and for  
20 six months after completion of such acquisition, construction,  
21 reconstruction, remodeling, repair, improvement, extension,  
22 equipment or furnishing; the costs of issuing the bonds or  
23 notes; and a reasonable reserve for payment of the principal  
24 of and interest on the bonds or notes.

25 (3) The board periodically may issue renewal notes of  
26 the state, may issue revenue bonds of the state to pay notes  
27 and, if it considers refunding expedient, may refund or re-  
28 fund in advance bonds issued by the board by the issuance of  
29 new bonds of the state, pursuant to the requirements of sec-  
30 tion thirty-two of this article.

31 (4) Except as may otherwise be expressly provided by the  
32 board, every issue of bonds or notes by it shall be special  
33 obligations of the state, payable solely from the revenues or  
34 other moneys pledged therefor.

35 (5) The bonds and the notes shall be authorized by resolu-  
36 tion of the board, shall bear such date and shall mature at such  
37 time or times, in the case of any such note or any renewals  
38 thereof not exceeding five years from the date of issue of such  
39 original note, and in the case of any such bond not exceeding  
40 forty years from the date of issue, as such resolution may pro-  
41 vide. The bonds and notes shall bear interest at such rate or  
42 rates, be in such denominations, be in such form either coupon  
43 or registered, carry such registration privileges, be payable in  
44 such medium of payment and at such place and be subject to  
45 such terms of redemption as the board may authorize. The  
46 bonds and notes may be sold by the board in the manner and  
47 at or not less than the price the board determines. The bonds  
48 and notes shall be executed by the governor and the president

49 of the board, both of whom may use facsimile signatures. The  
50 great seal of the state or a facsimile thereof shall be affixed  
51 thereto or printed thereon and attested, manually or by fac-  
52 simile signature, by the secretary of state, and any coupons at-  
53 tached thereto shall bear the manual or facsimile signature of  
54 the president of the board. In case any officer whose signature,  
55 or a facsimile of whose signature, appears on any bonds, notes  
56 or coupons ceases to be such officer before delivery of such  
57 bonds or notes, such signature or facsimile is nevertheless  
58 sufficient for all purposes the same as if he had remained in  
59 office until such delivery; and, in case the seal of the state  
60 has been changed after a facsimile has been imprinted on  
61 such bonds or notes, such facsimile seal will continue to be  
62 sufficient for all purposes.

63 (6) A resolution authorizing bonds or notes or an issue of  
64 bonds or notes under sections twenty-six through forty-two,  
65 inclusive, of this article, may contain provisions, which shall  
66 be a part of the contract with the holders of the bonds or  
67 notes, as to any or all of the following:

68 (a) Pledging and creating a lien on all or any portion of  
69 the moneys from time to time on deposit in the medical center  
70 revenue fund, heretofore created by section four-b of this  
71 article, to secure the payment of the bonds or notes or of any  
72 issue of bonds or notes, subject to those agreements with  
73 bondholders or noteholders which then exist;

74 (b) Pledging and creating a lien on any loan, grant or con-  
75 tribution to be received from the federal, state or local govern-  
76 ment or other source;

77 (c) The use and disposition of the moneys on deposit in  
78 the medical center revenue fund and any other gross revenues  
79 derived from the medical center;

80 (d) The setting aside of reserves or sinking funds and the  
81 regulation and disposition thereof;

82 (e) Limitations on the purpose to which the proceeds of  
83 sale of bonds or notes may be applied and pledging the pro-  
84 ceeds to secure the payment of the bonds or notes or of any  
85 issue of the bonds or notes;

86 (f) Limitations on the issuance of additional bonds or notes  
87 and the terms upon which additional bonds or notes may be  
88 issued and secured;

89 (g) The procedure by which the terms of a contract with  
90 the bondholders or noteholders may be amended or abrogated,  
91 the amount of bonds or notes the holders of which must con-  
92 sent thereto and the manner in which the consent may be  
93 given; and

94 (h) Vesting in a trustee or trustees the property, rights,  
95 powers, remedies and duties which the board considers neces-  
96 sary or convenient.

97 (7) Prior to the preparation of definitive bonds or notes,  
98 the board may under like restrictions issue temporary bonds  
99 or notes, with or without coupons, exchangeable for definitive  
100 bonds or notes, as the case may be, upon the issuance of the  
101 latter.

**§18-11-27. Trustee for bondholders or noteholders; contents of trust agreement.**

1 In the discretion of the board, any bonds, refunding bonds  
2 or notes issued by the board may be secured by a trust agree-  
3 ment between the board and a corporate trustee, which trustee  
4 may be any trust company or banking institution having the  
5 powers of a trust company within or without the state. Any  
6 such trust agreement may contain provisions as set forth in  
7 section twenty-six of this article with respect to the resolution.  
8 All expenses incurred in carrying out such agreement may be  
9 treated as a part of the cost of acquiring, constructing, recon-  
10 structing, remodeling, repairing, improving, extending, equip-  
11 ping or furnishing the buildings or other physical facilities of  
12 the West Virginia University medical center affected by the  
13 agreement.

**§18-11-28. Operation and control of fiscal affairs of West Virginia University medical center.**

1 The board shall properly maintain, repair, operate, manage  
2 and control the fiscal affairs of the West Virginia University  
3 medical center, fix the rates of rents, fees or charges and es-  
4 tablish rules and regulations for the use and operation of the

5 medical center, as provided by sections four-b through four-  
6 d, inclusive, of this article, and as otherwise required by this  
7 code or determined necessary by the board, and may make and  
8 enter into all contracts or agreements necessary and incidental  
9 to the performance of its duties and the execution of its pow-  
10 ers under sections twenty-six through forty-two, inclusive, of  
11 this article.

**§18-11-29. Payment of principal of and premium, if any, and inter-  
est on bonds and notes from medical center revenue  
fund and other gross revenues derived from West  
Virginia University medical center; gross revenues  
not to include tuition fees.**

1 Whenever bonds or notes are issued for acquiring, construct-  
2 ing, reconstructing, remodeling, repairing, improving, extend-  
3 ing, equipping or furnishing the buildings or other physical  
4 facilities of the West Virginia University medical center, the  
5 board may pledge to the payment of the principal of and  
6 premium, if any, and interest on said bonds or notes all or any  
7 portion of the moneys from time to time on deposit in the  
8 medical center revenue fund heretofore created by section  
9 four-b of this article or of any other gross revenues derived  
10 from the medical center. For the purposes of sections twenty-  
11 six through forty-two, inclusive, of this article, gross revenues  
12 shall not include tuition fees collected at the West Virginia  
13 University medical center and disposed of pursuant to section  
14 four-d of this article.

**§18-11-30. Enforcement of payment and validity of bonds and  
notes.**

1 (1) The provisions of sections twenty-six through forty-  
2 two, inclusive, of this article and any resolution or trust agree-  
3 ment shall continue in effect until the principal of and inter-  
4 est on the bonds or notes of the state issued by the board have  
5 been fully paid, and the duties of the board under said sections  
6 and any resolution or trust agreement shall be enforceable by  
7 any bondholder or noteholder by mandamus or other appro-  
8 priate action in any court of competent jurisdiction.

9 (2) The resolution authorizing the bonds or notes shall pro-  
10 vide that such bonds or notes shall contain a recital that they

11 are issued pursuant to sections twenty-six through forty-two,  
12 inclusive, of this article, which recital shall be conclusive evi-  
13 dence of their validity and of the regularity of their issuance.

**§18-11-31. Pledges, time, liens, recordation.**

1 Any pledge made by the board shall be valid and binding  
2 from the time the pledge is made. The moneys so pledged and  
3 thereafter paid into the medical center revenue fund or other-  
4 wise received by the board shall immediately be subject to the  
5 lien of the pledge without any physical delivery thereof or  
6 further act. The lien of any such pledge shall be valid and  
7 binding as against all parties having claims of any kind in tort,  
8 contract or otherwise against the board, irrespective of whether  
9 such parties have notice thereof.

**§18-11-32. Refunding bonds.**

1 Any bonds issued under the provisions of sections twenty-  
2 six through forty-two, inclusive, of this article and at any  
3 time outstanding may at any time and from time to time be  
4 refunded by the board by the issuance of refunding bonds of  
5 the state in such amount as it may deem necessary to refund  
6 the principal of the bonds so to be refunded, together with any  
7 unpaid interest thereon; to provide additional funds for the  
8 purposes authorized by said sections; and to pay any premiums  
9 and commissions necessary to be paid in connection therewith.  
10 Any such refunding may be effected whether the bonds to be  
11 refunded shall have then matured or shall thereafter mature,  
12 either by sale of the refunding bonds and the application of  
13 the proceeds thereof for the redemption of the bonds to be re-  
14 funded thereby, or by exchange of the refunding bonds for  
15 the bonds to be refunded thereby: *Provided*, That the holders  
16 of any bonds to be refunded shall not be compelled without  
17 their consent to surrender their bonds for payment or ex-  
18 change prior to the date on which they are payable or, if  
19 they are called for redemption, prior to the date on which  
20 they are by their terms subject to redemption. Any refunding  
21 bonds issued under the authority of this section shall be pay-  
22 able from the revenues out of which the bonds to be refunded  
23 thereby were payable, from other moneys or from the prin-  
24 cipal of and interest on or other investment yield from invest-

25 ments or proceeds of bonds or other applicable funds and  
26 moneys, including investments of proceeds of any refunding  
27 bonds, and shall be subject to the provisions contained in and  
28 shall be secured in accordance with sections twenty-six through  
29 forty-two, inclusive, of this article.

**§18-11-33. Purchase and cancellation of bonds or notes.**

1 The board, subject to such agreements with bondholders  
2 or noteholders as may then exist, shall have the power, out  
3 of any funds available therefor, to purchase bonds, including  
4 refunding bonds, or notes of the state issued by the board.  
5 If the bonds or notes are then redeemable, the price of such  
6 purchase shall not exceed the redemption price then applicable  
7 plus accrued interest to the next interest payment date thereon.  
8 If the bonds or notes are not then redeemable, the price of  
9 such purchase shall not exceed the redemption price applic-  
10 able on the first date after such purchase upon which the  
11 bonds or notes become subject to redemption plus accrued  
12 interest to such date. Upon such purchase, such bonds or notes  
13 shall be cancelled.

**§18-11-34. Federal and private assistance.**

1 The board is authorized and empowered to accept loans or  
2 grants or temporary advances for the purpose of paying part or  
3 all of the cost of acquiring, constructing, reconstructing, re-  
4 modeling, repairing, improving, extending, equipping or fur-  
5 nishing the buildings or other physical facilities of the West  
6 Virginia University medical center and the other purposes here-  
7 in authorized from the United States of America or such  
8 federal or public agency or department of the United States or  
9 any private agency, corporation or individual, which temporary  
10 advances may be repaid out of the proceeds of the bonds au-  
11 thorized to be issued under the provisions of sections twenty-  
12 six through forty-two, inclusive, of this article, and to enter  
13 into the necessary contracts and agreements to carry out the  
14 purposes hereof with the United States of America or such  
15 federal or public agency or department of the United States or  
16 with any private agency, corporation or individual.

**§18-11-35. Vested rights; impairment.**

1 The state pledges and agrees with the holders of any bonds  
2 or notes issued under sections twenty-six through forty-two,  
3 inclusive, of this article that the state will not limit or alter  
4 the rights vested in the board to fulfill the terms of any agree-  
5 ments made with the holders thereof, or in any way impair the  
6 rights and remedies of the holders, until the bonds or notes,  
7 together with the interest thereon, and all costs and expenses in  
8 connection with an action or proceeding by or on behalf of  
9 such holders, are fully met and discharged. The board is  
10 authorized to include this pledge and agreement of the state  
11 in any agreement with the holders of such bonds or notes.

**§18-11-36. Bonds and notes not debt of state, county, municipality  
or any political subdivision; expenses incurred pur-  
suant to article.**

1 Bonds, refunding bonds and notes issued under the author-  
2 ity of sections twenty-six through forty-two, inclusive, of this  
3 article and any coupons in connection therewith shall not con-  
4 stitute a debt or a pledge of the faith and credit or taxing  
5 power of this state or of any county, municipality or any other  
6 political subdivision of the state, and the holders and owners  
7 thereof shall have no right to have taxes levied by the Legis-  
8 lature or the taxing authority of any county, municipality or  
9 any other political subdivision of this state for the payment of  
10 the principal thereof or interest thereon, but such bonds and  
11 notes shall be payable solely from the revenues and funds  
12 pledged for their payment as authorized by said sections, un-  
13 less the notes are issued in anticipation of the issuance of  
14 bonds or the bonds are refunded by refunding bonds issued  
15 under the authority of said sections, which bonds or refunding  
16 bonds shall be payable solely from revenues and funds pledged  
17 for their payment as authorized by said sections. All such  
18 bonds and notes shall contain on the face thereof a statement  
19 to the effect that the bonds or notes, as to both principal and  
20 interest, are not debts of the state or any county, municipality  
21 or political subdivision thereof, but are payable solely from  
22 revenues and funds pledged for their payment.

23 All expenses incurred in carrying out the provisions of sec-

24 tions twenty-six through forty-two, inclusive, of this article  
 25 shall be payable solely from funds provided under the author-  
 26 ity of said sections. Said sections do not authorize the board  
 27 to incur indebtedness or liability on behalf of or payable by  
 28 the state or any county, municipality or any other political  
 29 subdivision thereof.

**§18-11-37. Negotiability of bonds and notes.**

1 Whether or not the bonds or notes are of such form or  
 2 character as to be negotiable instruments under the uniform  
 3 commercial code, the bonds or notes authorized to be issued  
 4 by sections twenty-six through forty-two, inclusive, of this  
 5 article are negotiable instruments within the meaning of and  
 6 for all the purposes of the uniform commercial code, subject  
 7 only to the provisions of the bonds or notes for registration.

**§18-11-38. Bonds and notes legal investments.**

1 The provisions of sections nine and ten, article six, chapter  
 2 twelve of this code to the contrary notwithstanding, the bonds  
 3 and notes of the state issued by the board are securities in  
 4 which all public officers and bodies of this state, including the  
 5 West Virginia state board of investments, all municipalities  
 6 and other political subdivisions of this state, all insurance com-  
 7 panies and associations and other persons carrying on an in-  
 8 surance business (including domestic for life and domestic not  
 9 for life insurance companies), all banks, trust companies,  
 10 societies for savings, building and loan associations, savings  
 11 and loan associations, deposit guarantee associations and in-  
 12 vestment companies, all administrators, guardians, executors,  
 13 trustees and other fiduciaries and all other persons whatso-  
 14 ever who are authorized to invest in bonds or other obligations  
 15 of the state may properly and legally invest funds, including  
 16 capital, in their control or belonging to them.

**§18-11-39. Exemption from taxation.**

1 The exercise of the powers granted to the board by sections  
 2 twenty-six through forty-two, inclusive, of this article will be  
 3 in all respects for the benefit of the students and teachers of  
 4 and patients at the West Virginia University medical center  
 5 and the other people of the state, for the improvement of their

6 health, safety, convenience and welfare, and is a public pur-  
7 pose. As the operation and maintenance of the West Virginia  
8 University medical center constitutes the performance of es-  
9 sential governmental functions, the board shall not be re-  
10 quired to pay any taxes or assessments upon any property ac-  
11 quired or used by the board or upon the income therefrom.  
12 All bonds and notes of the state issued by the board, and all  
13 interest and income thereon, shall be exempt from all tax-  
14 ation by this state and any county, municipality, political sub-  
15 division or agency thereof, except inheritance taxes.

**§18-11-40. Sections and provisions severable.**

1 Sections twenty-six through forty-two, inclusive, of this  
2 article, and the provisions and parts of said sections, are sev-  
3 erable, and it is the intention to confer the whole or any part  
4 of the powers provided for in said sections, and if any of said  
5 sections or the provisions or parts of any of said sections, or  
6 the application thereof to any person or circumstance, are for  
7 any reason held unconstitutional or invalid, it is the intention  
8 that the remaining sections and provisions or parts thereof shall  
9 remain in full force and effect.

**§18-11-41. Sections regarded as supplementary.**

1 Sections twenty-six through forty-two, inclusive, of this  
2 article shall be deemed to provide an additional and alternative  
3 method for the doing of the things authorized hereby and shall  
4 be regarded as supplementary and additional to powers con-  
5 ferred by other laws.

**§18-11-42. Liberal construction.**

1 Sections twenty-six through forty-two, inclusive, of this  
2 article, being necessary for the health, safety, convenience and  
3 welfare of the students and teachers of and the patients at the  
4 West Virginia University medical center and the other people  
5 of this state, shall be liberally construed to effectuate the pur-  
6 poses thereof.

**§18-11-43. Effective date.**

1 The provisions of sections four-b, four-c and sections

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2 twenty-six through forty-three of this article shall take effect  
3 as of the date of passage.

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

*Harrell E. Ashen*  
-----  
Chairman Senate Committee

*Donald Anello*  
-----  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Judd C. Nichols*  
-----  
Clerk of the Senate

*Donald L. Kopp*  
-----  
Clerk of the House of Delegates

*Robert M. How*  
-----  
President of the Senate

*Wm. M. Lee, Jr.*  
-----  
Speaker House of Delegates

The within *is approved* this the *26*  
day of *March*, 1983.

*John D. O'Connell*  
-----  
Governor

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OFFICE  
SECY. OF STATE