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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984



ENROLLED
Committee Substitute for
SENATE BILL NO. 585

(By Ms. *Chae*; *Mr. Tomovich*)



PASSED March 8, 1984
In Effect July 1, 1984 ~~Damage~~



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 585

(MS. CHACE AND MR. TONKOVICH, *original sponsors*)

[Passed March 8, 1984; to take effect July 1, 1984.]

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 thirty, relating to creation of the West Virginia hospital finance authority and the board thereof; the powers of said authority, including the power to lend money to hospitals for the acquisition or construction of hospital facilities, which include capital improvements and equipment, or for refinancing hospital indebtedness; the power to borrow money and issue bonds or notes, including refunding bonds or notes, to accomplish the purposes of the authority; power to enter into loan agreements; contracts, indentures, security agreements and other agreements, which may include provisions for the appointment of receivers; exemption from taxation of property of the authority and of any bonds or notes, and the interest thereon, issued by the authority; and other rights, powers and duties of the authority.

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 thirty, to read as follows:

ARTICLE 30. WEST VIRGINIA HOSPITAL FINANCE AUTHORITY ACT.

§16-30-1. Short title.

1 This article shall be known and may be cited as the “West
2 Virginia Hospital Finance Authority Act.”

§16-30-2. Declaration of policy and responsibility; purpose and intent of article; findings.

1 It is hereby declared to be the public policy of the state of
2 West Virginia and a responsibility of the state of West
3 Virginia, for the benefit of the people of the state and the
4 improvement of their health, welfare and living conditions,
5 to provide hospitals within the state with appropriate
6 means at reasonable cost to maintain, expand, enlarge and
7 establish health care, hospital and other related facilities
8 and to provide hospitals with the ability to refinance
9 indebtedness. This article shall provide a method to enable
10 hospitals in the state to provide or maintain at reasonable
11 cost pursuant to reasonable terms the facilities, structures
12 and services needed to accomplish the purposes of this
13 article, all to the public benefit and good, to the extent and
14 in the manner provided in this article.

15 The Legislature finds and hereby declares that the
16 responsibility of the state as outlined above cannot be
17 effectively met without the hospital loan program as
18 provided for in this article.

§16-30-3. Definitions.

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

- 3 (1) “Authority” means the West Virginia hospital
4 finance authority created by section four of this article, the
5 duties, 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
11 authority to effect the purposes of this article;

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

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

22 (6) "Hospital" means a corporation, association,
23 institution or establishment located within the state for the
24 care of those who require medical treatment, which may be
25 a public or private corporation or association. "Hospital"
26 specifically includes corporations or other organizations
27 engaged solely in some phase of hospital activity or in
28 providing a supporting service to hospitals or public or
29 private nonprofit corporations which operate or own
30 hospital facilities;

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

49 (8) "Hospital loan" means a loan made by the authority
50 to a hospital;

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

55 (10) "Project costs" means the total of the reasonable or
56 necessary costs incurred for carrying out the works and
57 undertakings for the acquisition or construction of hospital
58 facilities under this article. "Project costs" includes, but is
59 not limited to, all of the following costs: The costs of
60 acquisition or construction of the hospital facilities; studies
61 and surveys; plans, specifications, architectural and
62 engineering services; legal, organization, marketing or
63 other special services; financing, acquisition, demolition,
64 construction, equipping and site development of new and
65 rehabilitated buildings; rehabilitation, reconstruction,
66 repair or remodeling of existing buildings; interest and
67 carrying charges during construction and before full
68 earnings are achieved and operating expenses before full
69 earnings are achieved or a period of one year following the
70 completion of construction, whichever occurs first, and a
71 reasonable reserve for payment of principal of and interest
72 on bonds or notes of the authority. "Project costs" shall also
73 include reimbursement of a hospital for the foregoing costs
74 expended by a hospital from its own funds or from money
75 borrowed by the hospital for such purposes before issuance
76 and delivery of bonds or notes by the authority for the
77 purpose of providing funds to pay the project costs. "Project
78 costs" also specifically includes the refinancing of any
79 existing debt of a hospital necessary in order to permit the
80 hospital to borrow from the authority and give adequate
81 security for the hospital loan. The determination of the
82 authority with respect to the necessity of refinancing and
83 adequate security for a hospital loan is conclusive; and
84 (11) "Revenue" means any money or thing of value
85 collected by, or paid to, the authority as principal of or
86 interest, charges or other fees on hospital loans, or any other
87 collections on hospital loans made by the authority to
88 hospitals to finance in whole or in part the acquisition or
89 construction of any hospital facilities, or other money or
90 property which is received and may be expended for or
91 pledged as revenues pursuant to this article.

**§16-30-4. Creation of authority and board; status and members
of board.**

1 The West Virginia hospital finance authority is hereby
2 created. The authority is a body corporate and a

3 governmental instrumentality of the state. The exercise by
4 the authority of the powers conferred by this article and the
5 carrying out of its purposes and duties shall be deemed and
6 held to be, and are hereby determined to be, essential
7 governmental functions and for a public purpose.

8 The authority shall be controlled, managed and operated
9 by the seven-member board known as the West Virginia
10 hospital finance board, which is hereby created. The board
11 shall consist of the director of the state department of
12 health and the state treasurer as members ex-officio of the
13 board. The other five members of the board shall be
14 appointed by the governor, by and with the advice and
15 consent of the Senate, and shall serve terms of two, three,
16 four, five and six years, respectively. The successor of each
17 such appointed member shall be appointed for a term of six
18 years in the same manner as the original appointments were
19 made, except that any person appointed to fill a vacancy
20 occurring prior to the expiration of the term for which his
21 predecessor was appointed shall be appointed only for the
22 remainder of such term. No more than three of the
23 appointed board members shall at any one time belong to
24 the same political party. Appointed board members may be
25 reappointed to serve additional terms.

26 All members of the board shall be citizens of the state.
27 Each appointed member of the board, before entering upon
28 his duties, shall comply with the requirements of article
29 one, chapter six of this code and give bond in the sum of
30 twenty-five thousand dollars in the manner provided in
31 article two, chapter six of this code. The governor may
32 remove any board member for cause as provided in article
33 six, chapter six of this code. The director of the state
34 department of health and the state treasurer may each
35 appoint a deputy to serve as a member of the board in their
36 respective absences. Such deputy shall be a person in the
37 office of the director of the state department of health or the
38 state treasurer, as the case may be, and shall serve at his
39 pleasure.

40 Four members of the board shall constitute a quorum,
41 and the affirmative vote of four members shall be necessary
42 for any action taken by vote of the board. No vacancy in the
43 membership of the board shall impair the rights of a

44 quorum by such vote to exercise all the rights and perform
45 all the duties of the board and the authority.

46 Annually, the board shall elect one of its appointed
47 members as chairman and another as vice-chairman and
48 shall appoint a secretary-treasurer, who need not be a
49 member of the board. The person appointed as secretary-
50 treasurer, including a board member if he is so appointed,
51 shall give bond in the sum of fifty thousand dollars in the
52 manner provided in article two, chapter six of this code.

53 Members of the board shall not receive compensation for
54 services but shall be entitled to the necessary expenses,
55 including traveling expenses, incurred in the discharge of
56 their duties. Any payments for compensation and expenses
57 shall be paid from the funds of the authority, after
58 appropriations and authorization by the Legislature, and
59 no liability or obligation shall be incurred by the authority
60 beyond the extent to which moneys are available from
61 funds of the authority.

62 There shall also be a director of the authority appointed
63 by the board.

§16-30-5. Powers of authority.

1 The authority is hereby granted, has and may exercise all
2 the powers necessary or appropriate to carry out and
3 effectuate the purposes of this article, including the
4 following:

5 (a) To sue and be sued in its own name and plead and be
6 impleaded in its own name; to have a seal and alter the same
7 at its pleasure; to make, execute and deliver contracts,
8 indentures, agreements, conveyances and other
9 instruments necessary or convenient to the exercise of its
10 powers; to adopt and, from time to time, amend and repeal
11 bylaws necessary and proper for the legislation of its
12 business and rules and regulations to implement and make
13 effective its powers and duties, such rules and regulations
14 to be promulgated in accordance with the provisions of
15 chapter twenty-nine-a of this code; and to maintain a
16 principal office. Any actions against the authority shall be
17 brought in the circuit court of Kanawha County, in which
18 the principal office of the authority shall be located. When
19 the cost under any contract or agreement to be entered by
20 the authority, other than compensation for personal

21 services, involves an expenditure of more than three
22 thousand dollars, the authority shall make a written
23 contract with the lowest responsible bidder after public
24 notice published as a Class II legal advertisement in
25 compliance with the provisions of article three, chapter
26 fifty-nine of this code, the publication area for such
27 publication to be the county wherein the work is to be
28 performed or which is affected by the contract, which
29 notice shall state the general character of the work and the
30 general character of the materials to be furnished, the place
31 where plans and specifications therefor may be examined
32 and the time and place of receiving bids: *Provided*, That a
33 contract, indenture or agreement for a hospital loan is not
34 subject to the foregoing requirements, and the authority
35 may enter into such contract, indenture or agreement
36 pursuant to negotiation and upon such terms and
37 conditions and for such period as it finds to be reasonable
38 and proper under the circumstances and as necessary to
39 best effectuate the purposes of this article: *Provided*,
40 *however*, That a contract or agreement entered into by a
41 hospital to which any hospital loan is made is not subject to
42 the foregoing requirements. The authority may reject any
43 and all bids. A bond with good and sufficient surety,
44 approved by the authority, shall be required of all
45 contractors in an amount equal to at least fifty percent of
46 the contract price, conditioned upon the faithful
47 performance of the contract.

48 (b) To solicit and accept gifts, grants, loans and other
49 aids from any person, corporation or governmental agency.

50 (c) To make hospital loans, to participate in the making
51 of hospital loans, to undertake commitments, to execute
52 and be the beneficiary under deeds of trust, to enter into
53 security agreements, to sell hospital loans and the security
54 therefor at public or private sale, to modify or alter hospital
55 loans and security therefor, to discharge hospital loans and
56 security therefor, to order a trustee's sale under a deed of
57 trust or commence an action to protect or enforce a right
58 conferred upon it by a law, deed of trust, hospital loan,
59 contract, indenture or other agreement and to bid for and
60 purchase property which was the subject of a deed of trust
61 at a trustee's sale or at any other sale and to acquire or take
62 possession of that property and in that event complete,

63 administer, pay the principal of and interest on any
64 obligations incurred in connection with such property,
65 dispose of and otherwise deal with the property in a manner
66 necessary or desirable to protect the interest of the
67 authority in the property. The hospital loans made by the
68 authority may be secured by deeds of trust or security
69 agreements, as applicable, or not, as the authority
70 determines.

71 (d) To lend money to hospitals for the purpose of
72 refinancing any outstanding indebtedness of a hospital if
73 the authority determines the refinancing is necessary to
74 realize the purposes of this article. A hospital loan made
75 pursuant to this subsection shall not exceed the amount of
76 the principal of and interest and redemption premium, if
77 any, on the indebtedness to be refinanced which has not
78 been repaid, plus the marketing, financing, legal and other
79 costs incurred in connection with the refinancing and the
80 issuance of bonds or notes of the authority issued in whole
81 or in part to provide funds to make the hospital loan
82 described in this subdivision, including the costs of funding
83 a bond reserve and paying capitalized interest on the bonds
84 or notes for a period not to exceed one year after the
85 issuance of such bonds or notes. The determination of the
86 authority under this subsection shall be conclusive.

87 (e) To charge, impose and collect fees and charges in
88 connection with its hospital loans, commitments and
89 servicing, including reimbursement of the costs of
90 financing by the authority, service charges, insurance
91 premiums and an allocable share of the operating expenses
92 of the authority and to make provision for increasing the
93 same, if necessary, as the authority determines is
94 reasonable and approved by the board.

95 (f) To acquire, hold and dispose of real or personal
96 property necessary or appropriate for the accomplishment
97 of the purposes of this article.

98 (g) To procure insurance against a loss in connection
99 with its property, assets or activities.

100 (h) To borrow money for its purpose, including its initial
101 operating expense and issue its bonds or notes for the
102 money and provide for the rights of the holders of the bonds
103 or notes and to secure the bonds or notes by a deed of trust
104 on or an assignment or pledge of any or all of its properties,

105 including any part of the security for its hospital loans. The
106 state shall not be liable on any bonds or notes of the
107 authority; the bonds or notes shall not be a debt of the state;
108 and each bond or note shall contain on its face a statement
109 to that effect.

110 (i) To invest any funds not required for immediate use or
111 disbursement, at its discretion, in any of the following:

112 (1) Direct obligations of, or obligations the timely
113 payment of the principal of and interest on which is
114 guaranteed by, the United States of America;

115 (2) Bonds, debentures, notes or other evidences of
116 indebtedness issued by any of the following agencies: Banks
117 for cooperatives; federal intermediate credit banks; federal
118 home loan bank system; Export-Import Bank of the United
119 States; federal farm credit banks; federal land banks;
120 federal financing banks; the Federal National Mortgage
121 Association or the Government National Mortgage
122 Association;

123 (3) Public housing bonds issued by public agencies or
124 municipalities and fully secured as to the payment of both
125 principal and interest by a pledge of annual contributions
126 under an annual contributions contract or contracts with
127 the United States of America; or temporary notes issued by
128 public agencies or municipalities or preliminary loan notes
129 issued by public agencies or municipalities, in each case
130 fully secured as to the payment of both principal and
131 interest by a requisition or payment agreement with the
132 United States of America;

133 (4) Certificates of deposit secured by obligations of the
134 type specified in subparagraph (1);

135 (5) Direct obligations of, or obligations the timely
136 payment of the principal of and interest on which is
137 guaranteed by, the state of West Virginia;

138 (6) Direct and general obligations of any other state
139 within the territorial United States, to the payment of the
140 principal of and interest on which the full faith and credit of
141 such state is pledged: *Provided*, That at the time of their
142 purchase, such obligations are rated in either of the two
143 highest rating categories by a nationally recognized bond-
144 rating agency;

145 (7) Any fixed interest bond, note or debenture of any
146 corporation organized and operating within the United

147 States: *Provided*, That such corporation has a minimum net
148 worth of fifteen million dollars and its securities or its
149 parent corporation's securities are listed on one or more of
150 the national stock exchanges: *Provided, however*, That (i)
151 such corporation has earned a profit in eight of the
152 preceding ten fiscal years as reflected in its statements, (ii)
153 such corporation has not defaulted in the payment of
154 principal of or interest on any of its outstanding funded
155 indebtedness during its preceding ten fiscal years, and (iii)
156 the bonds, notes or debentures of such corporation to be
157 purchased are rated "AA" or the equivalent thereof or
158 better than "AA" or the equivalent thereof by at least two or
159 more nationally recognized rating services such as
160 Standard and Poor's, Dun & Bradstreet or Moody's;

161 (8) Fully collateralized or insured bankers acceptances
162 or time deposits drawn on and accepted by commercial
163 banks; and

164 (9) Repurchase agreements of commercial banks or
165 trust companies fully secured by obligations of the type
166 specified in subparagraph (1) and having on the date of such
167 agreement a fair market value equal to at least one hundred
168 percent of the principal amount of such repurchase
169 agreement.

170 (j) To engage necessary personnel and to engage the
171 services of private consultants for rendering professional
172 and technical assistance and advice.

173 (k) To establish or increase reserves from moneys
174 received or to be received by the authority to secure or to
175 pay the principal of and interest on bonds issued by the
176 authority pursuant to this article.

177 (l) To do all acts necessary and proper to carry out the
178 powers expressly granted to the authority in this article.

§16-30-6. Hospital loans.

1 The authority may lend money to hospitals for the
2 acquisition, construction, improvement or alteration of
3 hospital facilities. A hospital loan shall not be made unless
4 the authority is reasonably satisfied that there will be made
5 available to the hospital from the hospital loan and other
6 sources all the funds necessary to pay all project costs; that
7 the hospital facilities will produce revenues sufficient,
8 together with any other revenues pledged, to meet the

9 principal of and interest on the hospital loan, other costs,
 10 expenses and charges in connection with the hospital loan
 11 and other charges or obligations of the hospital which may
 12 be prior or equal to the hospital loan, promptly as they
 13 become due; and that the hospital is otherwise soundly
 14 financed. The hospital loan may be secured by a deed of
 15 trust on or a security interest in, as applicable, property of
 16 the hospital, including the hospital facilities, and may
 17 provide for the appointment of a receiver to operate the
 18 hospital facilities in case of default. A hospital loan made
 19 pursuant to this section shall not exceed the project costs as
 20 determined by the authority. A hospital loan shall be
 21 secured in a manner, be repaid in a period not exceeding
 22 fifty years and bear interest at a rate, all as determined by
 23 the authority, which interest rate may be decreased or
 24 increased so that it shall in no event be less than the rate
 25 paid by the authority on notes, renewal notes or bonds
 26 issued to fund the hospital loan. Such terms and provisions
 27 shall be set forth in a loan agreement between the authority
 28 and the hospital.

§16-30-7. 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 of
 7 the authority during construction of hospital facilities for
 8 which the hospital loan was made and for ^{a year} reasonable time
 9 thereafter and for the establishment of reserves to secure
 10 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 notes
 14 issued by the authority by the issuance of new bonds,
 15 pursuant to the requirements of section thirteen of this
 16 article.

17 (c) Except as may otherwise be expressly provided by
 18 the authority, every issue of its notes or bonds shall be
 19 special obligations of the authority, payable solely from the
 20 property, revenues or other sources of or available to the
 21 authority pledges therefor.

22 (d) The bonds and the notes shall be authorized by
23 resolution of the authority, shall bear such date and shall
24 mature at such time or times, in the case of any such note or
25 any renewals thereof, not exceeding seven years from the
26 date of issue of such original note, and in the case of any
27 such bond not exceeding fifty years from the date of issue,
28 as such resolution may provide. The bonds and notes shall
29 bear interest at such rate or rates, be in such denominations,
30 be in such form, either coupon or registered, carry such
31 registration privileges, be payable in such medium of
32 payment and at such place or places and be subject to such
33 terms of redemption as the authority may authorize. The
34 bonds and notes of the authority may be sold by the
35 authority, at public or private sale, at or not less than the
36 price the authority determines. The bonds and notes shall
37 be executed by the chairman and vice chairman of the
38 board, both of whom may use facsimile signatures. The
39 official seal of the authority or a facsimile thereof shall be
40 affixed to or printed on each bond and note and attested,
41 manually or by facsimile signature, by the secretary-
42 treasurer of the board, and any coupons attached to any
43 bond or note shall bear the signature or facsimile signature
44 of the chairman of the board. In case any officer whose
45 signature, or a facsimile of whose signature, appears on any
46 bonds, notes or coupons ceases to be such officer before
47 delivery of such bonds or notes, such signature or facsimile
48 is nevertheless sufficient for all purposes the same as if he
49 had remained in office until such delivery; and, in case the
50 seal of the authority has been changed after a facsimile has
51 been imprinted on such bonds or notes, such facsimile seal
52 will continue to be sufficient for all purposes.

53 (e) A resolution authorizing bonds or notes or an issue of
54 bonds or notes under this article may contain provisions,
55 which shall be a part of the contract with the holders of the
56 bonds or notes, as to any or all of the following:

57 (1) Pledging and creating a lien on all or any part of the
58 fees and charges made or received or to be received by the
59 authority, all or any part of the moneys received in payment
60 of hospital loans and interest on hospital loans and all or
61 any part of other moneys received or to be received, to
62 secure the payment of the bonds or notes or of any issue of

63 bonds or notes, subject to those agreements with
64 bondholders or noteholders which then exist;

65 (2) Pledging and creating a lien on all or any part of the
66 assets of the authority, including notes, deeds of trust and
67 obligations securing the assets, to secure the payment of the
68 bonds or notes or of any issue of bonds or notes, subject to
69 those agreements with bondholders or note holders which
70 then exist;

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

74 (4) The use and disposition of the income from hospital
75 loans owned by the authority and payment of the principal
76 of and interest on hospital loans owned by the authority;

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

79 (6) Limitations on the purpose to which the proceeds of
80 sale of bonds or notes may be applied and pledging the
81 proceeds to secure the payment of the bonds or notes or of
82 any issue of the bonds or notes;

83 (7) Limitations on the issuance of additional bonds or
84 notes and the terms upon which additional bonds or notes
85 may be issued and secured;

86 (8) The procedure by which the terms of a contract with
87 the bondholders or noteholders may be amended or
88 abrogated, the amount of bonds or notes the holders of
89 which must consent thereto and the manner in which the
90 consent may be given; and

91 (9) Vesting in a trustee or trustees the property, rights,
92 powers, remedies and duties which the authority considers
93 necessary or convenient.

§16-30-8. Trustee for bondholders; contents of trust agreement.

1 In the discretion of the authority, any bonds, including
2 refunding bonds, or notes issued by the authority may be
3 secured by a trust agreement between the authority and a
4 corporate trustee, which trustee may be any trust company
5 within or without the state. Any such trust agreement may
6 contain provisions as set forth in section seven of this article
7 with respect to the resolution. All expenses incurred in

8 carrying out the provisions of any trust agreement may be
9 treated as a part of the costs of the operation of the hospital
10 loan program provided for hereunder. Any such trust
11 agreement, indenture or resolution authorizing the
12 issuance of bonds or notes may provide the method whereby
13 the general administrative overhead expenses of the
14 authority shall be allocated among the several hospitals to
15 which hospital loans have been made.

§16-30-9. Use of funds by authority; restrictions thereon.

1 All moneys, properties and assets acquired by the
2 authority, whether as proceeds from the sale of bonds or
3 notes or as revenues or otherwise, shall be held by it in trust
4 for the purposes of carrying out its powers and duties and
5 shall be used and reused in accordance with the purposes
6 and provisions of this article. Such moneys shall at no time
7 be commingled with other public funds. Such moneys,
8 except as otherwise provided in any resolution authorizing
9 the issuance of bonds or notes or in any trust agreement
10 securing the same, or except when invested pursuant to
11 subsection nine, section five of this article, shall be kept in
12 appropriate depositories and secured as provided and
13 required by law. The resolution authorizing the issuance of
14 such bonds or notes of any issue or the trust agreement
15 securing such bonds or notes shall provide that any officer
16 to whom, or any banking institution or trust company to
17 which, such moneys are paid, shall act as trustee of such
18 moneys and hold and apply them for the purposes hereof,
19 subject to the conditions this article and such resolution or
20 trust agreement provide.

§16-30-10. Security for bonds and notes.

1 A resolution authorizing the issuance of bonds or notes
2 under this article may provide that the principal of and
3 interest on the bonds or notes issued shall be secured by a
4 lien on any or all of the fees and charges made or received, or
5 to be received, by the authority from the hospital in
6 connection with the hospital loan, on any or all of the money
7 received in payment of the hospital loan and interest on the
8 hospital loan, on any or all of investment earnings or profits
9 on any of these sources or on any or all of the security held
10 for that payment, and on other funds or assets of the
11 authority pledged for such purpose.

§16-30-11. Enforcement of payment and validity of bonds and notes.

- 1 (a) The provisions of this article and any resolution,
2 indenture, deed of trust or security agreement shall
3 continue in effect until the principal of and interest on the
4 bonds or notes of the authority have been fully paid, and the
5 duties of the authority under this article and any resolution,
6 indenture, deed of trust or security agreement shall be
7 enforceable by any bondholder or noteholder by
8 mandamus, trustee's sale under the deed of trust or other
9 appropriate action in any court of competent jurisdiction.
- 10 (b) The resolution authorizing the bonds or notes shall
11 provide that such bonds or notes shall contain a recital that
12 they are issued pursuant to this article, which recital shall
13 be conclusive evidence of their validity and of the regularity
14 of their issuance.

§16-30-12. Pledges; time; liens; recordation.

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

§16-30-13. Refunding bonds.

- 1 Any bonds issued hereunder and at any time outstanding
2 may at any time and from time to time be refunded by the
3 authority by the issuance of its refunding bonds in such
4 amount as it may deem necessary to refund the principal of
5 the bonds so to be refunded, together with any unpaid
6 interest thereon; to provide additional funds for the
7 purposes of the authority; and to pay any premiums and
8 commissions necessary to be paid in connection therewith.
9 Any such refunding may be effected whether the bonds to
10 be refunded shall have then matured or shall thereafter
11 mature, either by sale of the refunding bonds and the
12 application of the proceeds thereof for the redemption of
13 the bonds to be refunded thereby or by exchange of the

14 refunding bonds for the bonds to be refunded thereby:
15 *Provided*, That the holders of any bonds so to be refunded
16 shall not be compelled without their consent to surrender
17 their bonds for payment or exchange prior to the date on
18 which they are payable or, if they are called for redemption,
19 prior to the date on which they are by their terms subject to
20 redemption. Any refunding bonds issued under the
21 authority of this article shall be payable from the revenues
22 out of which the bonds to be refunded thereby were
23 payable, from other moneys or from the principal of and
24 interest on or other investment yield from investments or
25 proceeds of bonds or other applicable funds and moneys,
26 including investments of proceeds of any refunding bonds,
27 and shall be subject to the provisions contained in section
28 seven of this article and shall be secured in accordance with
29 the provisions of sections seven and eight of this article.

§16-30-14. Purchase and cancellation of notes or bonds.

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

§16-30-15. Vested rights; impairment.

1 The state pledges and agrees with the holders of any
2 bonds or notes issued under this article that the state will
3 not limit or alter the rights vested in the authority to fulfill
4 the terms of any agreements made with the holders thereof,
5 or in any way impair the rights and remedies of the holders
6 until the bonds or notes, together with the interest thereon,
7 and all costs and expenses in connection with any action or
8 proceeding by or on behalf of such holders, are fully met and

9 discharged. The authority is authorized to include this
10 pledge and agreement of the state in any agreement with the
11 holders of such bonds or notes.

**§16-30-16. Bonds and notes not debt of state, county,
municipality or any political subdivision;
expenses incurred pursuant to article.**

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

24 All expenses incurred in carrying out the provisions of
25 this article shall be payable solely from funds provided
26 under the authority of this article. Such article does not
27 authorize the authority to incur indebtedness or liability
28 on behalf of or payable by the state or any county,
29 municipality or any other political subdivision thereof.

§16-30-17. 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
3 uniform commercial code, the bonds or notes authorized to
4 be issued by this article are negotiable instruments within

5 the meaning of and for all the purposes of the uniform
6 commercial code, subject only to the provisions of the bonds
7 or notes for registration.

§16-30-18. Bonds and notes legal investments.

1 The provisions of sections nine and ten, article six,
2 chapter twelve of this code to the contrary notwithstanding,
3 the bonds and notes of the authority are securities in which
4 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
7 companies and associations and other persons carrying on
8 an insurance business, including domestic for life and
9 domestic not for life insurance companies, all banks, trust
10 companies, societies for savings, building and loan
11 associations, savings and loan associations, deposit
12 guarantee associations and investment companies, all
13 administrators, guardians, executors, trustees and other
14 fiduciaries and all other persons whatsoever who are
15 authorized to invest in bonds or other obligations of the
16 state may properly and legally invest funds, including
17 capital, in their control or belonging to them.

§16-30-19. Exemption from taxation.

1 The exercise of the powers granted to the authority by
2 this article will be in all respects for the benefit of the people
3 of the state for the improvement of their health, safety,
4 convenience and welfare and is a public purpose. As the
5 operation and maintenance of hospital facilities will
6 constitute the performance of essential governmental
7 functions, the authority shall not be required to pay any
8 taxes or assessments upon any property acquired or used by
9 the authority or upon the income therefrom. All bonds and
10 notes of the authority, and all interest and income thereon,
11 shall be exempt from all taxation by this state and any
12 county, municipality, political subdivision or agency
13 thereof, except inheritance taxes.

§16-30-20. Certificate of need.

1 Before the authority makes a hospital loan to any
2 hospital, and as a condition precedent to the authority's
3 making any such hospital loan, a certificate of need shall be

4 obtained pursuant to article two-d of this chapter, or a
5 determination shall be secured from the agency issuing the
6 certificate of need that a certificate is not necessary for the
7 hospital facilities with respect to which the hospital loan is
8 proposed to be made: *Provided*, That if a certificate of need
9 is not necessary for a specific project or projects, then the
10 health care cost review authority created by section five,
11 article twenty-nine-b of this chapter must be consulted by
12 the authority concerning the availability of financial
13 resources to both repay the loan and to fund the ongoing
14 operations of the project or projects. The opinion of the
15 health care cost review authority, while not determinative
16 on the question of the issuance of the hospital loan, shall be
17 entitled to substantial weight before the authority and shall
18 be overcome only by clear and convincing evidence to the
19 contrary. This section shall not apply to refinancing of
20 present indebtedness or to refunding or advance refunding
21 of bonds or notes.

§16-30-21. Nondiscrimination; hospital facilities.

1 The authority shall require that use of hospital facilities
2 assisted under this article shall be open to all, regardless of
3 race, religion, sex or creed, and that contractors and
4 subcontractors engage^d in the construction or alteration of
5 such hospital facilities shall provide an equal opportunity
6 for employment, without discrimination as to race, religion,
7 sex or creed. The hospital to which any hospital loan is
8 made shall covenant with the authority that the
9 nondiscrimination provisions shall be enforced.

§16-30-22. Personal liability; persons executing bonds or notes.

1 Neither the members or officers of the board nor officers
2 or employees of the authority nor any person executing the
3 bonds or notes shall be liable personally on the bonds or
4 notes or be subject to any personal liability or
5 accountability by reason of the issuance thereof.

§16-30-23. Financial interest in contracts prohibited; penalty.

1 No officer, member or employee of the board or the
2 authority shall be financially interested, directly or
3 indirectly, in any contract of any person with the authority,

4 or in the sale of any property, real or personal, to or from the
5 authority. This section does not apply to contracts or
6 purchases of property, real or personal, between the
7 authority and any governmental agency. If any officer,
8 member or employee of the board or the authority has such
9 financial interest in a contract or sale of property
10 prohibited hereby, he shall be guilty of a misdemeanor, and,
11 upon conviction thereof, shall be fined not more than one
12 thousand dollars, or imprisoned in the county jail not more
13 than one year, or both fined and imprisoned.

§16-30-24. Meetings and records of authority to be kept public.

1 All meetings of the authority shall be open to the public,
2 and the records of the authority shall be open to public
3 inspection at all reasonable times, except as otherwise
4 provided in this section. All final actions of the authority
5 shall be journalized, and such journal shall also be open to
6 the inspection of the public at all reasonable times. Any
7 records or information relating to secret processes or secret
8 methods of manufacture or production which may be
9 obtained by the authority or other persons acting under
10 authority of this article are confidential and shall not be
11 disclosed.

**§16-30-25. Cumulative authority as to powers conferred;
applicability of other statutes and charters.**

1 This article shall be construed as granting cumulative
2 authority for the exercise of the various powers herein
3 conferred, and neither the powers nor any bonds or notes
4 issued hereunder shall be affected or limited by any other
5 statutory or charter provision now or hereafter in force,
6 other than as may be provided in this article, it being the
7 purpose and intention of this article to create full, separate
8 and complete additional powers. The various powers
9 conferred herein may be exercised independently and
10 notwithstanding that no bonds or notes are issued
11 hereunder.

§16-30-26. Liberal construction.

1 This article, being necessary for and to secure the public
2 health, safety, convenience and welfare of the citizens of the
3 state, shall be liberally construed to effect the public
4 purposes hereof.

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

Harrell E. Cohen
.....
Chairman Senate Committee

Donald Anello
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1984.

Judd C. Willis
.....
Clerk of the Senate

Donald L. Hoff
.....
Clerk of the House of Delegates

Wanda R. McLean
.....
President of the Senate

Walter M. See, Jr.
.....
Speaker House of Delegates

The within *is approved* this the *30*
day of *March*, 1984.

..... *John R. Reynolds*
Governor

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SECY. OF STATE