WEST VIRGINIA LEGISLATURE
1st Extraordinary Session, 2001

ENROLLED

SENATE BILL NO. 1005

(By Senators Tomlin, Mr. President, and Sprouse, By Request of the Executive)

PASSED April 23, 2001

In Effect 90 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 veterans of the armed forces who are citizens of our state will be best served by the establishment of one or more skilled nursing facilities exclusively for these veterans.

Furthermore, the Legislature finds that nearly two hundred thousand veterans in this state have distinguished themselves with the highest level of participation per capita of any state in the wars fought by this nation. Further, an aging veterans’ population which suffers from wartime disabilities and illnesses are, or will be, in need of 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, construct, equip and operate one or more skilled nursing facilities to serve the needs of citizens of this state who are veterans of the armed forces of the United States. For each nursing facility established, the director shall appoint a facility administrator and other employees as are necessary to maintain the facility and deliver quality care 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 exceeding the principal amount of ten million dollars, be issued by the West Virginia hospital finance authority under provisions of section seven, article twenty-nine-a of this chapter. Net profit from the veterans lottery instant scratch-off game as authorized by section nine-a, article twenty-two, chapter twenty-nine of this code and other revenues that the Legislature may from time to time appropriate shall pay the principal and interest obligations of the bonds.

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

1 In order to qualify for service and residency in a skilled nursing facility established under this article, an applicant must have continuously been a citizen of the state of West Virginia for twelve consecutive months and must have performed active duty in an active component of the armed forces or performed active service in a reserve component of the armed forces for at least twelve consecutive months. The director shall propose a legislative rule further defining and limiting eligibility for services and 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 rule issued by the state agency, a certificate of need is not required for the construction, renovation, maintenance or operation of one or more state veterans skilled nursing facilities established pursuant to the provisions of article one-b of this chapter.
ARTICLE 29A. WEST VIRGINIA HOSPITAL FINANCE AUTHORITY ACT.

§16-29A-3. Definitions.

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

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

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

3. "Bond" means a revenue bond issued by the authority to effect the purposes of this article;

4. "Construction" means and includes new construction, reconstruction, enlargement, improvement and providing furnishings or equipment;

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

6. "Hospital" means a corporation, association, institution or establishment for the care of those who require medical treatment, which may be a public or private corporation or association, or state-owned or operated establishment and specifically includes nursing homes which are licensed under chapter sixteen of this code or those facilities certified under the Social Security Act as intermediate care facilities for the mentally retarded;

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

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

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

(10) "Project costs" means the total of the reasonable or necessary costs incurred for carrying out the works and undertakings for the acquisition or construction of hospital facilities under this article. "Project costs" includes, but is not limited to, all of the following costs: The costs of acquisition or construction of the hospital facilities; studies and surveys; plans, specifications, architectural and engineering services; legal, organization, marketing or other special services; financing, acquisition, demolition, construction, equipping and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair or remodeling of existing buildings; interest and carrying charges during construction and before full
earnings are achieved and operating expenses before full
earnings are achieved or a period of one year following the
completion of construction, whichever occurs first; and a
reasonable reserve for payment of principal of and interest
on bonds or notes of the authority. “Project costs” shall
also include reimbursement of a hospital for the foregoing
costs expended by a hospital from its own funds or from
money borrowed by the hospital for such purposes before
issuance and delivery of bonds or notes by the authority
for the purpose of providing funds to pay the project costs.
“Project costs” also specifically includes the refinancing of
any existing debt of a hospital necessary in order to permit
the hospital to borrow from the authority and give ade-
quate security for the hospital loan. The determination of
the authority with respect to the necessity of refinancing
and adequate security for a hospital loan is conclusive;
(11) “Revenue” means any money or thing of value
collected by, or paid to, the authority as principal of or
interest, charges or other fees on hospital loans or any
other collections on hospital loans made by the authority
to hospitals to finance, in whole or in part, the acquisition
or construction of any hospital facilities or other money or
property which is received and may be expended for or
pledged as revenues pursuant to this article;
(12) “Veterans skilled nursing facility” means a skilled
nursing care facility constructed and operated to serve the
needs of veterans of the armed forces of the United States
who are citizens of this state.
(a) The authority periodically may issue its negotiable
bonds and notes in a principal amount which, in the
opinion of the authority, shall be necessary to provide
sufficient funds for the making of hospital loans, including
temporary loans during the construction of hospital
facilities, for the payment of interest on bonds and notes
of the authority during construction of hospital facilities
for which the hospital loan was made and for a reasonable
time thereafter and for the establishment of reserves to
secure those bonds and notes.

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

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

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

e) The bonds and the notes shall be authorized by
resolution of the authority, shall bear the date and shall
mature at time or times, in the case of any such note or any
renewals thereof, not exceeding seven years from the date
of issue of the original note and in the case of any bond not exceeding fifty years from the date of issue, as the resolution may provide. The bonds and notes shall bear interest at rate or rates, be in a denomination, be in a form, either coupon or registered, carry registration privileges, be payable in the medium of payment and at place or places and be subject to the terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes are executed by the chairman and vice chairman of the board, both of whom may use facsimile signatures. The official seal of the authority or a facsimile thereof shall be affixed to or printed on each bond and note and attested, manually or by facsimile signature, by the secretary-treasurer of the board, and any coupons attached to any bond or note shall bear the signature or facsimile signature of the chairman of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to be an officer before delivery of the bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until the delivery; and, in case the seal of the authority has been changed after a facsimile has been imprinted on the bonds or notes, the facsimile seal will continue to be sufficient for all purposes.

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

(1) Pledging and creating a lien on all or any part of the fees and charges made or received or to be received by the authority, all or any part of the moneys received in payment of hospital loans and interest on hospital loans and all or any part of other moneys received or to be received, to secure the payment of the bonds or notes or of
any issue of bonds or notes, subject to those agreements
with bondholders or noteholders which then exist;

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

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

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

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

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

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

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

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

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICES.
ARTICLE 22. STATE LOTTERY ACT.

§29-22-9a. Veterans instant lottery scratch-off game.

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

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

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

(d) There is hereby created in the state treasury a special revenue fund designated and known as the veterans lottery fund which shall consist of all revenues derived from the veterans benefit game, any appropriations to the fund by the Legislature and all interest earned from investment of the fund and any gifts, grants or contributions received by
Revenues received by the veterans lottery fund shall be deposited in the West Virginia consolidated investment pool with the West Virginia investment management board, with the interest income a proper credit to all these funds.

(e) The commission shall change the design or theme of the veterans benefit game regularly so that the game remains competitive with the other instant lottery scratch-off games offered by the commission. The tickets for the instant lottery game created in this section shall clearly state that the profits derived from the game are being used to benefit veterans in this state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor