WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED
Committee Substitute for
SENATE BILL NO. 646

(By Senator Totten, Mr. President, and Sprouse, By Request of the Executive)

PASSED April 14, 2001

In Effect 90 days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 646

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

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-b; to amend 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 secretary of the department of health and human resources to house and serve veterans of the United States armed forces who are citizens of the state upon determining the need; 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 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 consideration of the establishment of one or more skilled nursing facilities exclusively for these veterans immediately upon determining need. 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.

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.

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 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 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 facili-
ties, 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 speci-
fied 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 hospi-
tal 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 adequate 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; and

(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.
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 construction, 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 revenues 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 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 denominations, 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, 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 noteholders 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
principal and interest is paid in full, the Legislature may
appropriate from the fund created under this section
moneys for the construction, equipping and operation of
one or more skilled nursing facilities for veterans of the
armed forces of the United States military: Provided,
however, 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
the fund. 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.

[Signatures]

Chairman Senate Committee
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signatures]

Clerk of the Senate
Clerk of the House of Delegates

President of the Senate
Speaker House of Delegates

The within... disapproved bill this the 2

Governor
PRESENTED TO THE
GOVERNOR

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