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WEST VIRGINIA LEGISLATURE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

EIGHTY-SECOND LEGISLATURE

REGULAR SESSION, 2015



ENROLLED

Senate Bill No. 584

(BY SENATORS M. HALL, WALTERS, BLAIR, BOSO, CARMICHAEL,
FACEMIRE, LAIRD, MULLINS, PLYMALE, PREZIOSO, STOLLINGS,
SYPOLT AND TAKUBO)

[PASSED MARCH 14, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 584 (Veto)

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FACEMIRE, LAIRD, MULLINS, PLYMALE, PREZIOSO, STOLLINGS,
SYPOLT AND TAKUBO)

[Passed March 14, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §18-2-16 and §18-2-16a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-5, §18-2L-6, §18-2L-7, §18-2L-8, §18-2L-9, §18-2L-10 and §18-2L-11, all relating to transfer of Cedar Lakes Camp and Conference Center from the State Board of Education to a private, nonstock, not-for-profit corporation established under the laws of this state.

Be it enacted by the Legislature of West Virginia:

That §18-2-16 and §18-2-16a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new article, designated §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-5, §18-2L-6, §18-2L-7, §18-2L-8, §18-2L-9, §18-2L-10 and §18-2L-11, all to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-16. Establishment and operation of state camp and conference center; rental thereof; expenditures; gifts and donations; county court may erect and equip buildings.

1 (a) For the purpose of developing competent leadership,
2 developing character, training for useful citizenship, fostering
3 patriotism and of providing and encouraging the development
4 of organized recreational activities for Future Farmers of
5 America and Future Homemakers of America members, and
6 other youth and adult groups, a camp and conference center
7 is hereby established.

8 The West Virginia Board of Education is hereby
9 authorized to secure a site for the camp and conference center
10 at some suitable place and provide the necessary buildings
11 and equipment therefor.

12 The camp and conference center shall be operated by the
13 Division of Vocational Education of the West Virginia Board
14 of Education. The camp and conference center may be rented
15 for educational purposes only and the rent received therefor
16 shall be deposited in the State Treasury and paid out on
17 requisition of the Division of Vocational Education of the
18 West Virginia Board of Education for the maintenance and
19 operation of the camp and conference center.

20 The minimum salary requirements in sections eight-a and
21 eighteen, article four, chapter eighteen-a of this code do not
22 apply to service employees who are initially employed on or
23 after July 1, 2014, by the Division of Vocational Education
24 to provide services at the camp and conference center.

25 Any appropriations now or hereafter made by the
26 Legislature to carry out the provisions and purposes of this

27 section shall be expended through the West Virginia Board
28 of Education. The West Virginia Board of Education may
29 receive and use such gifts and donations of money, land,
30 buildings, materials, equipment, supplies and labor, either
31 from public or private sources, as may be offered
32 unconditionally or under such conditions as in the judgment
33 of the West Virginia Board of Education are proper and
34 consistent with the provisions of this section.

35 All the money received as gifts and donations by the
36 West Virginia Board of Education shall be deposited in the
37 State Treasury to be used by the Board of Education in
38 establishing and maintaining the aforesaid camp and
39 conference center. A report of all gifts and donations offered
40 and accepted, together with the names of the donors and the
41 amounts contributed by each and all disbursements therefrom
42 shall be submitted annually to the Governor of the state by
43 the West Virginia Board of Education.

44 The county commission of any county may appropriate
45 and expend money from the general county fund, or from any
46 special fund available for such purpose, to erect and equip a
47 cottage or county building on the camp and conference center
48 property.

49 (b) The provisions of this section shall expire upon the
50 transfer of Cedar Lakes Camp and Conference Center to a
51 private, nonstock, not-for-profit corporation in accordance
52 with the provisions of article two-1 of this chapter.

**§18-2-16a. Construction of buildings and recreational facilities at state
camp and conference center; charges for use; financing by
revenue bonds or notes permissible; trustee for holders of
bonds or notes; contents of trust agreement.**

1 (a) The West Virginia Board of Education is hereby
2 authorized to construct, erect, acquire and improve dining
3 halls, cottages and other buildings or recreational facilities it

4 considers necessary and beneficial for the proper conduct and
5 management of the camp and conference center and may
6 charge such rates, fees, rentals and other charges for the use
7 of the buildings and recreational facilities as it determines
8 necessary and advisable.

9 The construction, erection, acquisition and improvement
10 of dining halls, cottages and other buildings or recreational
11 facilities may be financed by the issuance of revenue bonds
12 or notes of the state of West Virginia payable solely from the
13 revenues derived from the operation of the camp and
14 conference center notwithstanding any of the provisions of
15 section sixteen of this article.

16 The revenue bonds or notes shall be authorized by
17 resolution of the West Virginia Board of Education,
18 hereinafter referred to in this section as the "board", and the
19 revenue bonds or notes shall not constitute a debt of the state
20 of West Virginia within the meaning of any of its statutes or
21 constitution.

22 The principal of and interest on the bonds or notes shall
23 be payable solely from the special fund provided for in this
24 section for such payment. The board shall pledge the moneys
25 in the special fund, except that part of the proceeds of sale of
26 any bonds or notes to be used to pay the cost of a project, for
27 the payment of the principal of and interest on bonds or notes
28 issued pursuant to this section. The pledge shall apply equally
29 and ratably to separate series of bonds or notes or upon such
30 priorities as the board determines. The bonds or notes shall be
31 authorized by resolution of the board which shall recite an
32 estimate of the cost of the project and shall provide for the
33 issuance of bonds or notes in an amount sufficient, when sold
34 as provided in this section, to produce such cost, less the
35 amount of any funds, grant or grants, gift or gifts,
36 contribution or contributions received, or in the opinion of

37 the board expected to be received from any source. The
38 acceptance by the board of any and all funds, grants, gifts and
39 contributions, whether in money or in land, labor or
40 materials, is hereby expressly authorized. All bonds or notes
41 shall have and are hereby declared to have all the qualities of
42 negotiable instruments. The bonds or notes shall bear interest
43 at not more than twelve percent per annum, payable
44 semiannually, and shall mature in not more than forty years
45 from their date or dates of issuance, and may be made
46 redeemable at the option of the board, at such price and under
47 such terms and conditions, as the board may fix prior to the
48 issuance of the bonds or notes. The board shall determine the
49 form of the bonds or notes, including coupons, if any, to be
50 attached thereto to evidence the right of interest payments,
51 which bonds or notes shall be signed by the chairman and
52 secretary of the board, under the great seal of the state,
53 attested by the Secretary of State, and the coupons, if any,
54 attached thereto shall bear the facsimile signature of the
55 chairman of the board. In case any of the officers whose
56 signatures appear on the bonds or notes or coupons issued as
57 authorized under this section shall cease to be such officers
58 before the delivery of the bonds or notes, the signatures are
59 nevertheless valid and sufficient for all purposes the same as
60 if they had remained in office until such delivery. The board
61 shall fix the denominations of the bonds or notes, the
62 principal and interest of which shall be payable at the office
63 of the Treasurer of the state of West Virginia at the state
64 capitol, or at the option of the holder, at some bank or trust
65 company within or without the state of West Virginia to be
66 named in the bonds or notes, in such medium as may be
67 determined by the board. The bonds or notes and interest
68 thereon are exempt from taxation by the state of West
69 Virginia, or any county or municipality in the state. The
70 board may provide for the registration of the bonds or notes
71 in the name of the owners as to principal alone, and as to both
72 principal and interest under such terms and conditions as the

73 board may determine, and shall sell the bonds or notes in
74 such manner as it may determine to be for the best interest of
75 the state and the board, taking into consideration the financial
76 responsibility of the purchaser, and the terms and conditions
77 of the purchase, and especially the availability of the
78 proceeds of the bonds or notes when required for payment of
79 the cost of the project, the sale to be made at a price not lower
80 than a price which, computed upon standard tables of bond
81 values, will show a net return of not more than thirteen
82 percent per annum to the purchaser upon the amount paid
83 therefor. The proceeds of the bonds or notes shall be used
84 solely for the payment of the cost of the project for which
85 bonds or notes were issued, and shall be deposited and
86 checked out in the same manner as provided by article six,
87 chapter five of this code, and under such further restrictions,
88 if any, as the board may provide. If the proceeds of bonds or
89 notes issued for a project or a specific group of projects
90 exceeds the cost of the project or projects, the surplus shall be
91 paid into the fund provided for in this section for payment of
92 the principal and interest of the bonds or notes. The fund may
93 be used for the purchase of any of the outstanding bonds or
94 notes payable from the fund at the market price, but at not
95 exceeding the price, if any, at which the bonds or notes are in
96 the same year redeemable. All bonds or notes redeemed or
97 purchased shall forthwith be canceled and shall not again be
98 issued. Prior to the preparation of definitive bonds or notes,
99 the board may, under like restrictions, issue temporary bonds
100 or notes with or without coupons, exchangeable for definitive
101 bonds or notes upon the issuance of the latter.

102 Notwithstanding the provisions of sections nine and ten,
103 article six, chapter twelve of this code, revenue bonds or
104 notes issued under the authority granted in this section are
105 eligible as investments for the Workers' Compensation Fund,
106 Teachers Retirement Fund, Division of Public Safety Death,

107 Disability and Retirement Fund, West Virginia Public
108 Employees Retirement System and as security for the deposit
109 of all public funds. The revenue bonds or notes may be issued
110 without any other proceedings or the happening of any other
111 conditions or things than those proceedings, conditions and
112 things which are specified and required by this article, or by
113 the constitution of the state. For all projects authorized under
114 the provisions of this section, the aggregate amount of all
115 issues of bonds or notes outstanding at one time shall not
116 exceed \$2.5 million including the renegotiation, reissuance or
117 refinancing of any bonds or notes.

118 Notwithstanding anything in this section to the contrary,
119 the board is authorized to issue bonds or notes or otherwise
120 finance or refinance the projects in this section, including the
121 costs of issuance and sale of the bonds or notes or financing,
122 all necessary financial and legal expenses and creation of
123 debt service reserve funds in an amount not to exceed \$2.5
124 million.

125 The board may enter into an agreement or agreements
126 with any trust company, or with any bank having the powers
127 of a trust company, whether within or outside of the state, as
128 trustee for the holders of bonds or notes issued under this
129 section, setting forth in the agreement the duties of the state
130 and of the board in respect of the acquisition, construction,
131 improvement, maintenance, operation, repair and insurance
132 of the project, the conservation and application of all moneys,
133 the insurance of moneys on hand or on deposit, and the rights
134 and remedies of the trustee and the holders of the bonds or
135 notes, as may be agreed upon with the original purchasers of
136 the bonds or notes. The agreement or agreements shall
137 include provisions restricting the individual right of action of
138 bondholders or noteholders as is customary in trust

139 agreements respecting bonds or notes and debentures of
140 corporations, protecting and enforcing the rights and
141 remedies of the trustee and the bondholders or noteholders,
142 and provide for approval by the original purchasers of the
143 bonds or notes of the appointment of consulting architects,
144 and of the security given by those who contract to construct
145 the project, and by any bank or trust company in which the
146 proceeds of bonds or notes or rentals shall be deposited, and
147 for approval by the consulting architects of all contracts for
148 construction. All expenses incurred in carrying out the
149 agreement may be treated as a part of the cost of
150 maintenance, operation and repairs of the project.

151 (b) The bonding authority granted under subsection (a) of
152 this section shall expire upon the transfer of Cedar Lakes
153 Camp and Conference Center to a private, nonstock, not-for-
154 profit corporation in accordance with the provisions of article
155 two-1 of this chapter.

**ARTICLE 2L. TRANSFER OF CEDAR LAKES CAMP AND
CONFERENCE CENTER.**

§18-2L-1. Definitions.

1 As used in this article:

2 (1) "Board" means the West Virginia Board of Education.

3 (2) "Cedar Lakes" means the camp and conference center
4 established pursuant to section sixteen, article two of this
5 chapter.

6 (3) "Cedar Lakes employee" means any employee of the
7 board whose job responsibilities are primarily at or concern
8 Cedar Lakes.

9 (4) “Department” means the Department of Education.

10 (5) “Foundation” means a private, nonstock, not-for-
11 profit corporation established under the laws of this state to
12 which the board will transfer Cedar Lakes and which
13 otherwise meets the requirements of section four of this
14 article.

15 (6) “Transfer agreement” means the agreement between
16 the board and the foundation that transfers ownership,
17 operation and control of Cedar Lakes from the board to the
18 foundation.

19 (7) “Transfer date” means either July 1, 2017, or the date
20 by which the board has secured or performed all approvals,
21 authorizations and any other actions necessary to transfer
22 Cedar Lakes from the board to the foundation.

23 (8) “Transition fund” means the Cedar Lakes Transition
24 Fund established pursuant to section five of this article.

§18-2L-2. Purpose and legislative findings.

1 (a) *Legislative intent.* – It is the intent of the Legislature
2 in enacting this article to transfer ownership, operation and
3 control of Cedar Lakes to private, nonstock, not-for-profit
4 corporation, in order for the camp and conference center to
5 continue independently and to best fulfill its purpose of
6 developing competent leadership, developing character,
7 training for useful citizenship, fostering patriotism and of
8 providing and encouraging the development of organized
9 recreational activities for Future Farmers of America and
10 Future Homemakers of America members, and other youth
11 and adult groups.

12 (b) *Findings.* – The Legislature finds and declares that:

13 (1) Pursuant to section sixteen, article two of this chapter,
14 the Legislature authorized the board to establish Cedar Lakes
15 for the purpose of developing competent leadership,
16 developing character, training for useful citizenship, fostering
17 patriotism and of providing and encouraging the development
18 of organized recreational activities for Future Farmers of
19 America and Future Homemakers of America members, and
20 other youth and adult groups.

21 (2) Over the decades, Cedar Lakes has fulfilled this
22 purpose and has become an integral part of the local economy
23 and the Jackson County community;

24 (3) The Legislature recognizes the economic and social
25 value of Cedar Lakes and that its continued viability depends
26 on it becoming an independent, self-sustaining entity; and

27 (4) A private, not-for-profit structure is the best means of
28 assuring prudent financial management and, in turn, the
29 fulfilling of the purposes of Cedar Lakes and serving the
30 local economy, the Jackson County community and the state.

§18-2L-3. Board authorized to contract with foundation.

1 The board is hereby authorized to enter into the transfer
2 agreement and all other contractual agreements necessary to
3 transfer Cedar Lakes to the foundation, as consistent with this
4 article.

§18-2L-4. Description of foundation.

1 The foundation to which the board transfers Cedar Lakes
2 upon the transfer date shall be a nonstock, not-for-profit
3 corporation established pursuant to the provisions of chapter
4 thirty-one-e of this code, known as the West Virginia
5 Nonprofit Corporation Act.

§18-2L-5. Establishment of the Cedar Lakes Transition Fund.

1 Upon the effective date of the enactment of this article in
2 2015, there is hereby established in the State Treasury a
3 Cedar Lakes Transition Fund over which the State Treasurer
4 is custodian to be administered by the department. Moneys
5 transferred or otherwise payable to the transition fund shall
6 be deposited in the State Treasury to the credit of the
7 transition fund. Disbursements shall be made from the
8 transition fund pursuant to and for the purposes provided in
9 the article.

§18-2L-6. Agreement; required provisions.

1 Notwithstanding section ten, article three, chapter twelve
2 of this code, or any other provision of this code to the
3 contrary, the board is hereby authorized to enter into a
4 transfer agreement with the foundation, which shall contain
5 the following provisions, subject to further specification as
6 shall be mutually agreed upon by the board and the
7 foundation:

8 (a) On the transfer date, the board shall disburse and pay
9 to the foundation all moneys subject to the control of the
10 board then held in any state fund or wherever located which
11 had theretofore been delivered as a donation to the
12 department or otherwise for or on behalf of the Cedar Lakes
13 Camp and Conference Center, the FFA-FHA Camp and
14 Conference Center, or such other purpose or activity related
15 to the department's governance of Cedar Lakes;

16 (b) On the transfer date, the board shall transfer and deed
17 to the foundation in fee simple absolute all real estate at
18 Cedar Lakes owned by the board and this transfer of real
19 estate shall comply and be consistent with the provisions of
20 section three, article five, chapter one of this code;

21 (c) The board shall transfer and assign contractual rights
22 and contractual duties specifically relating to Cedar Lakes to
23 the foundation: *Provided*, That contractual rights and
24 contractual duties that are not specifically related to Cedar
25 Lakes remain with the board;

26 (d) Effective on the transfer date, the foundation shall
27 assume responsibility for and shall defend, indemnify and
28 hold harmless the board, the department and the state with
29 respect to all liabilities and duties of Cedar Lakes and all
30 claims for breach of contract resulting from the foundation's
31 action or failure to act after the transfer date; and

32 (e) On and after the transfer date, the foundation shall
33 own, operate and control Cedar Lakes and all of its property
34 and assets in fee simple absolute.

§18-2L-7. Exemption from certain requirements.

1 In order, as expeditiously as possible, to transfer Cedar
2 Lakes from the board to the foundation, the transactions
3 provided by this article shall be exempt from the bidding and
4 public sale requirements, from the approval of contractual
5 agreements by the Department of Administration or the
6 Attorney General and from the requirements of chapter five-a
7 of this code. Moreover, the board shall also be exempt from
8 these provisions with respect to its operations of Cedar Lakes
9 prior to and up to the transfer date. The board, with respect to
10 its operations of Cedar Lakes prior to and up to the transfer
11 date, shall not be required to use the Enterprise Resource
12 Planning System or other related rules established or
13 authorized in article six-d, chapter twelve of this code.

§18-2L-8. Certain personnel provisions concerning Cedar Lakes employees.

1 (a) Immediately upon the transfer of Cedar Lakes from
2 the board to the foundation on the transfer date, all Cedar
3 Lakes employees shall become at-will employees of the
4 foundation.

5 (b) Any person who:

6 (1) Was a Cedar Lakes employee as of January 1, 2017;

7 (2) Was a Cedar Lakes employee who became an
8 employee of the foundation upon the transfer date; and

9 (3) Is laid off by the foundation on or before July 1, 2018,
10 is entitled to be placed on an appropriate reemployment list
11 maintained by the Division of Personnel and to be allowed a
12 preference on that list. The Division of Personnel shall
13 maintain such an employee on the reemployment list
14 indefinitely, or until the employee has declined three offers
15 of employment at a paygrade substantially similar to that of
16 his or her position as a Cedar Lakes employee upon
17 termination from employment, or until he or she is
18 reemployed by the executive branch of state government,
19 whichever occurs earlier.

20 (c) The foundation shall enter into an agreement with the
21 Division of Personnel for the provision of services and
22 training to an employee of the foundation who is laid off on
23 or before July 1, 2018, and requires additional training to
24 obtain other gainful employment. The Division of Personnel
25 shall administer the program. The fees required for those
26 services and training shall be in an amount established by the
27 Division of Personnel and the foundation, and shall be paid
28 out of the transition fund.

29 (d) Any Cedar Lakes employee as of the transfer date and
30 who becomes an employee of the foundation shall have the

31 following options related to their accrued and unused sick
32 leave: Freeze said accrued and unused sick leave at the balance
33 that exists as of the transfer date and use said sick leave at the
34 time of retirement for those purposes that would have been
35 available to the employee under law in existence at the date of
36 the transfer had the employee retired on the transfer date; or
37 have his or her accrued and unused sick leave irrevocably
38 surrendered in exchange for one hour of pay for each hour of
39 accrued and unused sick leave surrendered to be payable from
40 the transition fund. With respect to any Cedar Lakes employee
41 as of the transfer date and who becomes an employee of the
42 foundation, the department shall pay the employee such
43 amounts as the employee is entitled for his or her accrued but
44 unused annual leave, not to exceed forty days.

45 (e) The Division of Personnel shall cooperate fully by
46 assisting in all activities necessary to expedite all changes for
47 the board, Cedar Lakes and employees, including, but not
48 limited to, all of the above subsections.

§18-2L-9. No waiver of sovereign immunity.

1 Nothing contained in this article shall be deemed or
2 construed to waive or abrogate in any way the sovereign
3 immunity of the state or to deprive the board, department or
4 any officer or employee thereof of sovereign immunity.

§18-2L-10. Not obligation of the state.

1 The obligations of the foundation shall not constitute
2 debts or obligations of the board, department or the state.

§18-2L-11. Sections and provisions severable.

1 The sections of this article, and the provisions and parts
2 of said sections, are severable and it is the intention to confer

3 the whole or any part of the powers provided for in this
4 article and, if any of said sections, or the provisions or parts
5 of any said sections, or the application thereof to any person
6 or circumstance, are for any reason held unconstitutional or
7 invalid, it is the intention that the remaining sections of this
8 article, and the remaining provisions or parts of any said
9 sections, shall remain in full force and effect.

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

Maury P. Alexander
.....
Chairman Senate Committee

John P. Mc...
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark A. Barnes
.....
Clerk of the Senate

Stephen J. Harrison
.....
Clerk of the House of Delegates

Mullie P. ...
.....
President of the Senate

Phil ...
.....
Speaker of the House of Delegates

The within *is disapproved* this the *3rd*
Day of *April*, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2015

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