WEST VIRGINIA LEGISLATURE
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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.]
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.

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

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

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

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

Any appropriations now or hereafter made by the Legislature to carry out the provisions and purposes of this
section shall be expended through the West Virginia Board of Education. The West Virginia Board of Education may receive and use such gifts and donations of money, land, buildings, materials, equipment, supplies and labor, either from public or private sources, as may be offered unconditionally or under such conditions as in the judgment of the West Virginia Board of Education are proper and consistent with the provisions of this section.

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

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

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

(a) The West Virginia Board of Education is hereby authorized to construct, erect, acquire and improve dining halls, cottages and other buildings or recreational facilities it
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4 considers necessary and beneficial for the proper conduct and
management of the camp and conference center and may
charge such rates, fees, rentals and other charges for the use
of the buildings and recreational facilities as it determines
necessary and advisable.

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

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

22 The principal of and interest on the bonds or notes shall
be payable solely from the special fund provided for in this
section for such payment. The board shall pledge the moneys
in the special fund, except that part of the proceeds of sale of
any bonds or notes to be used to pay the cost of a project, for
the payment of the principal of and interest on bonds or notes
issued pursuant to this section. The pledge shall apply equally
and ratably to separate series of bonds or notes or upon such
priorities as the board determines. The bonds or notes shall be
authorized by resolution of the board which shall recite an
estimate of the cost of the project and shall provide for the
issuance of bonds or notes in an amount sufficient, when sold
as provided in this section, to produce such cost, less the
amount of any funds, grant or grants, gift or gifts,
contribution or contributions received, or in the opinion of
the board expected to be received from any source. The acceptance by the board of any and all funds, grants, gifts and contributions, whether in money or in land, labor or materials, is hereby expressly authorized. All bonds or notes shall have and are hereby declared to have all the qualities of negotiable instruments. The bonds or notes shall bear interest at not more than twelve percent per annum, payable semiannually, and shall mature in not more than forty years from their date or dates of issuance, and may be made redeemable at the option of the board, at such price and under such terms and conditions, as the board may fix prior to the issuance of the bonds or notes. The board shall determine the form of the bonds or notes, including coupons, if any, to be attached thereto to evidence the right of interest payments, which bonds or notes shall be signed by the chairman and secretary of the board, under the great seal of the state, attested by the Secretary of State, and the coupons, if any, attached thereto shall bear the facsimile signature of the chairman of the board. In case any of the officers whose signatures appear on the bonds or notes or coupons issued as authorized under this section shall cease to be such officers before the delivery of the bonds or notes, the signatures are nevertheless valid and sufficient for all purposes the same as if they had remained in office until such delivery. The board shall fix the denominations of the bonds or notes, the principal and interest of which shall be payable at the office of the Treasurer of the state of West Virginia at the state capitol, or at the option of the holder, at some bank or trust company within or without the state of West Virginia to be named in the bonds or notes, in such medium as may be determined by the board. The bonds or notes and interest thereon are exempt from taxation by the state of West Virginia, or any county or municipality in the state. The board may provide for the registration of the bonds or notes in the name of the owners as to principal alone, and as to both principal and interest under such terms and conditions as the
board may determine, and shall sell the bonds or notes in such manner as it may determine to be for the best interest of the state and the board, taking into consideration the financial responsibility of the purchaser, and the terms and conditions of the purchase, and especially the availability of the proceeds of the bonds or notes when required for payment of the cost of the project, the sale to be made at a price not lower than a price which, computed upon standard tables of bond values, will show a net return of not more than thirteen percent per annum to the purchaser upon the amount paid therefor. The proceeds of the bonds or notes shall be used solely for the payment of the cost of the project for which bonds or notes were issued, and shall be deposited and checked out in the same manner as provided by article six, chapter five of this code, and under such further restrictions, if any, as the board may provide. If the proceeds of bonds or notes issued for a project or a specific group of projects exceeds the cost of the project or projects, the surplus shall be paid into the fund provided for in this section for payment of the principal and interest of the bonds or notes. The fund may be used for the purchase of any of the outstanding bonds or notes payable from the fund at the market price, but at not exceeding the price, if any, at which the bonds or notes are in the same year redeemable. All bonds or notes redeemed or purchased shall forthwith be canceled and shall not again be issued. Prior to the preparation of definitive bonds or notes, the board may, under like restrictions, issue temporary bonds or notes with or without coupons, exchangeable for definitive bonds or notes upon the issuance of the latter.

Notwithstanding the provisions of sections nine and ten, article six, chapter twelve of this code, revenue bonds or notes issued under the authority granted in this section are eligible as investments for the Workers' Compensation Fund, Teachers Retirement Fund, Division of Public Safety Death,
Disability and Retirement Fund, West Virginia Public Employees Retirement System and as security for the deposit of all public funds. The revenue bonds or notes may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this article, or by the constitution of the state. For all projects authorized under the provisions of this section, the aggregate amount of all issues of bonds or notes outstanding at one time shall not exceed $2.5 million including the renegotiation, reissuance or refinancing of any bonds or notes.

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

The board may enter into an agreement or agreements with any trust company, or with any bank having the powers of a trust company, whether within or outside of the state, as trustee for the holders of bonds or notes issued under this section, setting forth in the agreement the duties of the state and of the board in respect of the acquisition, construction, improvement, maintenance, operation, repair and insurance of the project, the conservation and application of all moneys, the insurance of moneys on hand or on deposit, and the rights and remedies of the trustee and the holders of the bonds or notes, as may be agreed upon with the original purchasers of the bonds or notes. The agreement or agreements shall include provisions restricting the individual right of action of bondholders or noteholders as is customary in trust
agreements respecting bonds or notes and debentures of corporations, protecting and enforcing the rights and remedies of the trustee and the bondholders or noteholders, and provide for approval by the original purchasers of the bonds or notes of the appointment of consulting architects, and of the security given by those who contract to construct the project, and by any bank or trust company in which the proceeds of bonds or notes or rentals shall be deposited, and for approval by the consulting architects of all contracts for construction. All expenses incurred in carrying out the agreement may be treated as a part of the cost of maintenance, operation and repairs of the project.

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

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

§18-2L-1. Definitions.

As used in this article:

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

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

(3) "Cedar Lakes employee" means any employee of the board whose job responsibilities are primarily at or concern Cedar Lakes.
(4) "Department" means the Department of Education.

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

(6) "Transfer agreement" means the agreement between the board and the foundation that transfers ownership, operation and control of Cedar Lakes from the board to the foundation.

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

(8) "Transition fund" means the Cedar Lakes Transition Fund established pursuant to section five of this article.

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

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

(b) Findings. – The Legislature finds and declares that:
(1) Pursuant to section sixteen, article two of this chapter, the Legislature authorized the board to establish Cedar Lakes for the purpose of developing competent leadership, developing character, training for useful citizenship, fostering patriotism and of providing and encouraging the development of organized recreational activities for Future Farmers of America and Future Homemakers of America members, and other youth and adult groups.

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

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

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

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

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

§18-2L-4. Description of foundation.

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

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

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

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

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

(b) On the transfer date, the board shall transfer and deed to the foundation in fee simple absolute all real estate at Cedar Lakes owned by the board and this transfer of real estate shall comply and be consistent with the provisions of section three, article five, chapter one of this code;
(c) The board shall transfer and assign contractual rights and contractual duties specifically relating to Cedar Lakes to the foundation: Provided, That contractual rights and contractual duties that are not specifically related to Cedar Lakes remain with the board;

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

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

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

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

Immediately upon the transfer of Cedar Lakes from the board to the foundation on the transfer date, all Cedar Lakes employees shall become at-will employees of the foundation.

(b) Any person who:

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

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

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

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

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

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

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

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

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

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

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

The sections of this article, and the provisions and parts of said sections, are severable and it is the intention to confer
the whole or any part of the powers provided for in this
article and, if any of said sections, or the provisions or parts
of any said sections, or the application thereof to any person
or circumstance, are for any reason held unconstitutional or
invalid, it is the intention that the remaining sections of this
article, and the remaining provisions or parts of any said
sections, shall remain in full force and effect.
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 of the House of Delegates

The within ........................................ this the 3rd
Day of ........................................................., 2015.

Governor