

Form #7

OFFICE WEST VIRGINIA
SECRETARY OF STATE
Effective Date

**ATTACHMENT TO
NOTICE OF AN EMERGENCY RULE**

**WEST VIRGINIA HOSPITAL FINANCE AUTHORITY, TITLE NUMBER: 116
WEST VIRGINIA CODE SECTION 16-29A-5(e)**

The West Virginia Hospital Finance Authority (the "Authority") has been advised by a major hospital that the hospital desires that the Authority be the issuer with respect to a proposed bond issue in the approximate amount of \$250,000,000 for the benefit of the hospital, but has indicated that the Authority's fee schedule, as presently in effect, would require an initial fee that is cost prohibitive. The West Virginia Hospital Finance Board (the "Board") of the Authority has acknowledged that, at the time of adoption of the current fee schedule, a bond issue of this size was not contemplated and that a cap on the initial fee for projects of this type is appropriate. Accordingly, the Board has approved an amendment to the Legislative Rule establishing the fee schedule to provide a cap of \$45,000.00 on the initial fee for Single Projects, as defined in the Rule. The amendment also gives the Authority flexibility as to whether certain costs are to be allocated to a particular bond issue or not and removes the minimum fee for Single Projects, as defined in the Rule.

The emergency results from the fact that the bond issue described above is scheduled to close within the next month and, if the cap on fees is not in place, the hospital has indicated that it will not proceed with the Authority to issue the bonds, which would result in: (i) the Authority losing substantial fee revenue thereby increasing the costs of other hospitals utilizing the Authority, (ii) the Authority not fulfilling its statutory purpose of providing "hospitals with appropriate means at reasonable cost to maintain, expand, enlarge and establish health care, hospital and other related facilities" as provided in West Virginia Code Section 16-29A-2, and (iii) the hospital to be financed in part with the proceeds of the Authority's hospital revenue bonds being delayed and jeopardized and also subjected to increased costs. Accordingly, the amendment of the Rule is necessary for the immediate preservation of the public health, safety and welfare.

FILED

**TITLE 116
LEGISLATIVE RULE
HOSPITAL FINANCE AUTHORITY**

2006 MAY 18 P 3 53

**SERIES 1
ESTABLISHMENT OF FEE SCHEDULE AND COST ALLOCATIONS
APPLICABLE TO THE ISSUANCE OF BONDS BY THE WEST VIRGINIA
HOSPITAL FINANCE AUTHORITY**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§116-1-1. General.

1.1. Scope. -- This legislative rule establishes the fee schedule and the allocation of costs applicable to the issuance of bonds of the West Virginia Hospital Finance Authority.

1.2. Authority. -- W. Va. Code §16-29A-5(e).

1.3. Filing Date. --

1.4. Effective Date --

§116-1-2. Establishment Of Fee Schedule For The Issuance Of Bonds Of West Virginia Hospital Finance Authority.

2.1. Pursuant to the provisions of West Virginia Code §16-29A-5(e), the West Virginia Hospital Finance Authority hereby adopts and establishes the following fee schedule for the issuance of the bonds of the Authority:

Fee Schedule

For Single Projects (projects involving only one (1) hospital in only one (1) county):

Initial Fee

\$ 300.00 per million dollars issued

~~\$2,000.00 minimum fee~~ \$45,000.00 maximum fee

Annual Fee

Maximum of 1/20th of 1% of bonds outstanding

For Financing Pools and Multi-County Projects (projects involving more than one (1) hospital or involving one (1) hospital in more than one (1) county:

Initial Fee

\$600.00 per million dollars issued for the first ten million dollars (\$10,000,000) of an issue

\$375.000 per million dollars issued over the first ten million dollars of an issue

\$5,000.00 minimum fee

Annual Fee

Maximum of 1/20th of 1% of bonds outstanding

For Refunding Bonds of the Authority:

Initial Fee

\$2,000.00

Annual Fee

Maximum of 1/20th of 1% of bonds outstanding.

(NOTE: The initial fees will be applied in proportion to any fraction of a million dollars issued.)

(NOTE: The annual fees may be waived or reduced by the Authority as provided for in Section 2.3 of this Rule.)

2.2. The initial fees shall be payable at closing out of the proceeds of the bond issue.

2.3. The annual fees may be waived or reduced by the Authority if the Authority determines that said fees are not needed for the payment of the operating expenses of the Authority: **Provided**, That in no event shall the annual fee of an issue exceed such issue's proportionate share of the projected operating expenses of the Authority for the year of assessment as such expenses are shown in the proposed budget adopted by the Authority for said year of assessment: **Provided further**, That in no event shall the annual established herein for an issue exceed 1/20th of 1% of the bonds outstanding for such issue.

2.4. The annual fees shall be payable on the anniversary date of the respective issues, as calculated as of the date thirty (30) days immediately preceding said anniversary date.

§116-1-3. Allocation Of Costs Application To Issuance Of Bonds Of West Virginia Hospital Finance Authority

3.1. All costs incurred by the Authority that can be directly attributed to a bond issue pending before the Authority ~~shall~~may be allocated by the Authority, in the discretion of the Authority, to that bond issue and such costs so allocated shall be paid at closing out of the proceeds of that bond issue. All such costs so allocated shall be in addition to the fees established in Section 2 of this Rule.

3.2. Without limiting in any manner the costs that may be allocated pursuant to Section 3.1 of this Rule, all legal and other professional fees incurred by the Authority that can be directly attributed to a bond issue may be allocated by the Authority to that bond issue and such legal and other professional fees so allocated shall be paid at closing out of the proceeds of that bond issue. All such costs so allocated shall be in addition to the fees established in Section 2 of this Rule.

3.3. In the event that a bond issue is not consummated for any reason, whether by action of the Authority or otherwise, all costs incurred by the Authority that can be directly attributed to such bond issue, including any legal and other professional fees, may be allocated by the Authority to that bond issue and such costs so allocated shall be paid by the hospital, corporation, association or other entity, if any, that proposed or requested such bond issue.

§116-1-4. Amendment Of Fee Schedule.

4.1. The Authority may amend, in accordance with law, the fee schedule by the affirmative vote of four (4) board members and any such amendment shall be binding and applicable to all issues outstanding at the time of such action and to all subsequent issues: **Provided**, That in no event shall the annual fees established in this Rule exceed an issue's proportionate share of the projected operating expenses of the Authority for the year of assessment as shown in the proposed budget adopted by the Authority for said year of assessment: **Provided further**, That in no event shall the annual fee established in this Rule for an issue exceed 1/20th of 1% of the bonds outstanding for such issue.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: **Establishment of Fee Schedule and Cost Allocations Applicable to the Issuance of Bonds by the West Virginia Hospital Finance Authority**

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: **West Virginia Hospital Finance Authority**

Address: **One Players Club Drive**
Charleston, West Virginia 25311

Phone Number: **304.558.0549** Email: **sarah.hamrick@wvsto.com**

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The proposed amendment to the subject Legislative Rule will not increase any of the costs of the West Virginia Hospital Finance Authority. It will increase the revenues of the Authority because of the fees that will be payable to the Authority with respect to bonds of the Authority that would not have been issued if the proposed amendment was not adopted.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	-- 0 --	-- 0 --	-- 0 --
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	\$25,000	\$6,000	\$6,000

Rule Title: **Establishment of Fee Schedule and Cost Allocations Applicable to the Issuance of Bonds by th West Virginia Hospital Finance Authority**

Establishment of Fee Schedule and Cost Allocations Applicable to the
Rule Title: Issuance of Bonds by the West Virginia Hospital Finance Authority

3. **Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

The estimate for the current fiscal year includes the Initial Fee (less certain expenses payable from said fee) on hospital revenue bonds that would not otherwise be issued by the West Virginia Hospital Finance Authority if the proposed amendment was not adopted. The increased revenues for subsequent years includes the annual fees on said hospital revenue bonds.

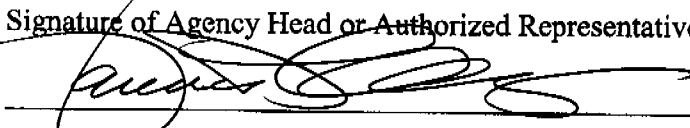
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

NONE.

Date: May 18, 2006

Signature of Agency Head or Authorized Representative


James R. Christie, Chairman

EMERGENCY RULE QUESTIONNAIRE

DATE: May 18, 2006

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Hospital Finance Authority

One Players Club Drive

Charleston, West Virginia 25311

EMERGENCY RULE TITLE: Amendment to Establishment of Fee Schedule and Cost Allocations
Applicable to the Issuance of Bonds by the West Virginia Hospital
Finance Authority

1. Date of filing May 18, 2006

2. Statutory authority for promulgating emergency rule:

West Virginia Code Section 16-29A-5(e)

3. Date of filing of proposed legislative rule: May 18, 2006

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? It amends a current legislative rule.

5. Has the same or similar emergency rule previously been filed and expired?

No.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

If the subject amendment is not made immediately effective, the Authority
will not be able to issue approximately \$250,000,000 in hospital revenue
bonds and would lose substantial revenue thereby increasing the costs of other
hospitals utilizing the Authority and further, the hospital to be financed in part
with the proceeds of those bonds would be delayed and jeopardized and would
also experience increased costs.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See Number 6 above.
