WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: West Virginia Hospital Finance Authority TITLE NUMBER: 116

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

AMENDMENT TO AN EXISTING RULE: YES X NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ___

TITLE OF RULE BEING PROPOSED: ___

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

WEST VIRGINIA HOSPITAL FINANCE AUTHORITY

Sarah Hamrick

Authorized Signature

Sarah B. Hamrick
Administrative Assistant

#1.40

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 28, 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
(304) 558-0549

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

1. Authorizing statute(s) citation West Virginia Code Section 16-29A-5(e)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

   May 18, 2006

   b. What other notice, including advertising, did you give of the hearing?

   None

   c. Date of Public Hearing(s) *or* Public Comment Period ended:

   Public Hearing was held on June 29, 2006

   d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

   Attached ______ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 28, 2006

f. **Name, title, address and <u>phone/fax/e-mail numbers</u>** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Sarah B. Hamrick, Administrative Assistant
West Virginia Hospital Finance Authority
One Players Club Drive
Charleston, West Virginia 25311
Telephone Number 558-0549
Fax Number: 558-0538
Email Address: sarah.hamrick@wvsto.com

g. **<u>IF DIFFERENT</u> FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Camden P. Siegrist, Esquire
Bowles Rice McDavid Graff & Love LLP (Counsel to the Authority)
P. O. Box 1386
Charleston, West Virginia 25325-1386
Telephone Number: 347-1129
Fax Number: 343-3058
Email Address: csiegrist@bowlesrice.com

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

   a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

   N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

BRIEF SUMMARY OF
PROPOSED AMENDMENT TO LEGISLATIVE RULE

WEST VIRGINIA HOSPITAL FINANCE AUTHORITY,
TITLE NUMBER: 116, SERIES 1
"ESTABLISHMENT OF FEE SCHEDULE AND
COST ALLOCATIONS APPLICABLE TO THE
ISSUANCE OF BONDS BY THE
WEST VIRGINIA HOSPITAL FINANCE AUTHORITY"
WEST VIRGINIA CODE SECTION 16-29A-5(e)

The West Virginia Hospital Finance Authority (the "Authority") proposes to amend its Legislative Rule entitled "Establishment of Fee Schedule and Costs Allocations Applicable to the Issuance of Bonds by the West Virginia Hospital Finance Authority" (the "Rule") to: (i) put a cap of $45,000 on its initial fee for Single Projects, as defined in the Rule, (ii) remove the minimum fee of $2,000 for Single Projects, as defined in the Rule, and (iii) make discretionary the allocation of certain costs to bond issues of the Authority.

Respectfully submitted,

WEST VIRGINIA HOSPITAL
FINANCE AUTHORITY

By: Sarah Hamrick
Sarah B. Hamrick
Its: Administrative Assistant

1549405

STATEMENT OF CIRCUMSTANCES

WEST VIRGINIA HOSPITAL AUTHORITY FINANCE
PROPOSED AMENDMENTS TO LEGISLATIVE RULE ENTITLED
"ESTABLISHMENT OF FEE SCHEDULE
AND COST ALLOCATIONS APPLICABLE TO THE ISSUANCE OF BONDS BY THE
WEST VIRGINIA HOSPITAL FINANCE AUTHORITY"

The West Virginia Hospital Finance Authority (the "Authority") has determined a need for certain amendments to its Legislative Rule entitled : "Establishment of Fee Schedule and Cost Allocations Applicable to the Issuance of Bonds by the West Virginia Hospital Finance Authority" (the "Rule") as follows:

1. Establishing a cap of $45,000 on its initial fee for Single Projects, as defined in the Rule;

2. Removing the minimum fee of $2,000 per Single Project as defined in the Rule; and

3. Clarifying that the allocation of certain costs to bond issues of the Authority is discretionary.

The circumstances requiring the subject changes include, with respect to the establishment of the cap on the initial fee for Single Projects, as defined in the Rule, a determination by the Authority that, for larger financings, the fee schedule of the Authority, prior to the proposed Amendment, was too costly for hospitals seeking the issuance of bonds by the Authority. This became apparent recently when the Authority was requested to issue approximately $250,000,000 in hospital revenue bonds and was advised that, without the establishment of the above-referenced cap on its initial fee, the hospital would be forced to use another issuer because the initial fee of the Authority, prior to the proposed amendment, would have been $75,000. In order to accommodate the financing schedule of the hospital, the proposed amendment was adopted as an emergency rule. Further, the removal of the minimum fee for Single Projects, as defined in the Rule, was also determined by the Authority to be appropriate in order to facilitate smaller financings for hospitals. Finally, the Authority determined it to be appropriate to clarify that the Authority has discretion in allocating expenses to its various bond issues.

Respectfully submitted,

WEST VIRGINIA HOSPITAL
FINANCE AUTHORITY

By: Sarah Hamrick
Sarah B. Hamrick
Its: Administrative Assistant

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: [X] 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	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	25,000.00	6,000.00	6,000.00

Rule Title: Establishment of Fee Schedule and Cost Allocations Applicable to the 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: July 28, 2006

Signature of Agency Head or Authorized Representative

Sarah B. Hamrick, Administrative Assistant

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

TITLE 116
LEGISLATIVE RULE
HOSPITAL FINANCE AUTHORITY

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

§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

$375.00 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 fee 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 Applicable 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.

WEST VIRGINIA HOSPITAL FINANCE AUTHORITY
TRANSCRIPT OF PUBLIC HEARING HELD ON
JUNE 29, 2006

Re: Proposed Amendments to Legislative Rule Entitled "Establishment of Fee Schedule and Cost Allocations Applicable to the Issuance of Bonds by the West Virginia Hospital Finance Authority"

On June 29, 2006, at 11:00 a.m., in the Treasurer's first floor conference room at One Players Club Drive, Charleston, West Virginia, Sarah B. Hamrick, Administrative Assistant to the West Virginia Hospital Finance Authority (the "Authority"), called to order a public hearing on the proposed amendments to the Legislative Rule of the Authority entitled "Establishment of Fee Schedule and Cost Allocations Applicable to the Issuance of Bonds by the West Virginia Hospital Finance Authority." Those present were Sarah B. Hamrick, Administrative Assistant of the Authority, and Camden P. Siegrist, a lawyer with the firm of Bowles Rice McDavid Graff & Love LLP, counsel to the Authority. No other persons were present. Ms. Hamrick then opened the floor for public comment and no comments were received. She thereafter closed the public heareing. She also reported that no written comments had been received. The public hearing was then adjourned.

Respectfully submitted,

WEST VIRGINIA HOSPITAL
FINANCE AUTHORITY

By: Sarah Hamrick
Sarah B. Hamrick
Its: Administrative Assistant