WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #7

Do Not Mark In this Box

FILED

MAY 11 PM 3:16

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia Hospital Finance Authority TITLE NUMBER: 116 Chapter 16-29A

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

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES X , NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

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

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: ___

TITLE OF RULE BEING FILED AS AN EMERGENCY: ___

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

(See Attached Sheet)

Use Additional Sheets If Necessary.

Karen L. Potesta
Executive Director

FILED

1990 MAY 15 [illegible] 9:18

OFFICE [illegible]

The Honorable Ken Hechler
Secretary of State
Administrative Law Division
State Capitol
Charleston, West Virginia 25305

Dear Mr. Secretary of State:

The West Virginia Hospital Finance Authority is filing an emergency amendment to an existing rule.

The facts and circumstances constituting the emergency are attached to Form # 7, "Notice of an Emergency Rule."

I am aware of this amendment. I have reviewed the draft and approve the filing of this emergency amendment to the existing rule.

Sincerely,

Raymona A. Kinneberg

Raymona Kinneberg
Deputy Secretary
Department of Health and Human Resources

cc: Taunja Willis Miller, Secretary
Department of Health and Human Resources

cc: Karen L. Potesta, Executive Director
West Virginia Hospital Finance Authority

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

During a recent audit, it was noted that Section 3.1 of the subject Legislative Rule requires that "All costs incurred by the Authority that can be directly attributed to a bond issue pending before the Authority shall be allocated to that bond issue..." (emphasis added). The Authority did not intend that all costs be so allocated and the subject Emergency Amendment clarifies that the Authority has the discretion to determine which costs are to be allocated to a bond issue. The subject Emergency Amendment also clarifies the amount of the annual fee on refunding bonds of the Authority. The promulgation of this Emergency Amendment is necessary for the immediate preservation of the public health and welfare and to prevent substantial harm to the public interest because, if the amendment does not become effective immediately, the Authority would be required by its existing Legislative Rule to charge hospitals for expenses that would not be charged to the hospitals under the Legislative Rule as amended by the subject Emergency Amendment. Accordingly, the subject Emergency Amendment to the Legislative Rule is required to avoid unnecessary expense to the State's hospitals and thereby to keep health care costs affordable for the people of West Virginia in accordance with the stated purposes of the West Virginia Hospital Finance Authority Act.

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EMERGENCY AMENDMENT TO
WEST VIRGINIA LEGISLATIVE RULE
WEST VIRGINIA HOSPITAL FINANCE AUTHORITY
CHAPTER 16-29A
SERIES 1

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

Brief Summary of the Contents of the Legislative Rule

The subject Emergency Amendment to Legislative Rule clarifies that the Authority has the discretion to determine which costs are to be allocated to a bond issue of the Authority and also clarifies the amount of the annual fee on refunding bonds of the Authority.

Statement of the Circumstances Which Require the Rule

The existing Legislative Rule is unclear as to the discretion in the Authority to determine which costs are to be allocated to a bond issue of the Authority. The current Legislative Rule is also slightly unclear as to the amount of the annual fee on refunding bonds of the Authority. This Emergency Amendment to the Legislative Rule clarifies these issues.

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APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Emergency Amendment to Legislative Rule entitled "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 Suite 402, 910 Quarrier Street Charleston, West Virginia 25301

1. Effect of Proposed Rule	ANNUAL Increase	ANNUAL Decrease	FISCAL YEAR Current	FISCAL YEAR Next	FISCAL YEAR Thereafter
Estimated Total Cost	$ -0-	$ -0-	$ -0-	$ -0-	$ -0-
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates: The subject emergency amendment is intended to clarify that the Authority has the discretion to determine which costs are to be allocated to a bond issue of the Authority and to clarify the amount of the annual fee on refunding bonds of the Authority. Accordingly, there will be no change in the costs related to the Rule.

3. Objectives of these rules:
   See 2. above.

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EMERGENCY AMENDMENT TO
WEST VIRGINIA LEGISLATIVE RULE
WEST VIRGINIA HOSPITAL FINANCE AUTHORITY
CHAPTER 16-29A
SERIES 1

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

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EMERGENCY AMENDMENT TO
WEST VIRGINIA LEGISLATIVE RULE
WEST VIRGINIA HOSPITAL FINANCE AUTHORITY
CHAPTER 16-29A
SERIES 1

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1990 MAY 11 PM 3:17

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

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

1.3. Filing Date (original rule) - January 9, 1987.
Filing Date (amendment) - May 11, 1990.

1.4. Effective Date (original rule) - June 12, 1987.
Effective Date (amendment) - May 11, 1990.

1.5 Repeal of Former Rule - This Emergency Amendment amends West Virginia Legislative Rule "West Virginia Hospital Finance Authority, Chapter 16-29A, Series 1, Establish of Fee Schedule and Cost Allocations Applicable to the Issuance of Bonds by the West Virginia Hospital Finance Authority", filed January 9, 1987, by changing certain language in Section 3 of said Rule to clarify that the Authority has the discretion to determine which costs are to be allocated to a bond issue of the Authority and by adding certain language in Section 2.1 of said Rule to clarify the amount of the annual fee on refunding bonds of the Authority.

Section 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 hospital in only one county):

Initial Fee

$ 300.00 per million dollars issued
2,000.00 minimum fee

Annual Fee

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

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

Initial Fee

$ 600.00 per million dollars issued for the first ten million dollars 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.

Section 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 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 ~~can~~ 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 ~~shall~~ 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.

Section 4. Amendment of Fee Schedule.

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.

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