WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF 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: Chapter 16-29A

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

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 NEW 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.

Karen L. Potesta

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

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	Decrease	FISCAL YEAR Current	Next	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.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None (See 2. above)

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

None (See 2. above)

C. Economic Impact on Citizens/Public at Large.

None (See 2. above.0

Date: 5/11/90

Signature of Agency Head or Authorized Representative

Karen L. Potesta

Karen L. Potesta, Executive Director

DATE: August 30, 1990

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Hospital Finance Authority

LEGISLATIVE RULE TITLE:

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

2. a. Date filed in State Register with Notice of Hearing:

   May 11, 1990

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

   None

   c. Date of hearing (s): July 6, 1990

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

   Attached X No comments received ______

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

   August 30, 1990

   f. Name and phone number of agency person to contact for additional information:

   Karen L. Potesta, Executive Director

   West Virginia Hospital Finance Authority

   348-0549

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.

      Not Applicable

   b. Date of hearing: Not Applicable

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

      Not Applicable

   d. Attach findings and determinations and reasons:

      Attached Not Applicable

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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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

A transcript of the public hearing held on July 6, 1990 regarding the subject Emergency Amendment to the above-referenced Legislative Rule is attached hereto. The attendance at the public hearing is set forth in the transcript as are the comments received at the public hearing. No written comments were received by the Authority on the subject Emergency Amendment to the Legislative Rule. No amendments were made to the subject Emergency Amendment as a result of comments or other information received at the public hearing.

Respectfully Submitted,

Karen L. Potesta

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

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WEST VIRGINIA HOSPITAL FINANCE AUTHORITY

TRANSCRIPT OF PUBLIC HEARING

PROPOSED 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"

July 6, 1990

Pursuant to notice duly given, a public hearing was conducted by the West Virginia Hospital Finance Authority (the "Authority") commencing at 10:00 a.m. on July 6, 1990, at the offices of the Authority located at Suite 402, 910 Quarrier Street, Charleston, West Virginia, regarding the proposed amendment 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", which proposed amendment was filed with the Secretary of State on May 11, 1990.

The following individuals were present: Karen L. Potesta, Secretary-Treasurer and Executive Director of the Authority and Camden P. Siegrist, Bowles Rice McDavid Graff & Love, counsel to the Authority.

Karen L. Potesta, Secretary-Treasurer and Executive Director of the Authority, called the meeting to order at 10:00 a.m. Ms. Potesta reviewed the proposed amendment to the subject Legislative Rule and then recognized Camden P. Siegrist of the law firm of Bowles Rice McDavid Graff & Love, counsel to the Authority. Mr. Siegrist explained that the subject Legislative Rule establishes the fee schedules for bond issues of the Authority and also provides that the Authority is empowered to allocate to a bond issue certain costs incurred by the Authority in connection with such bond issue. Mr. Siegrist also explained that the subject amendment was necessary to clarify that the Authority has the discretion to determine which costs are to be allocated to a bond issue. Mr. Siegrist recommended the adoption of the subject amendment.

There being no further comments, written or oral, the public hearing was adjourned by Ms. Potesta at 10:15 a.m.

Respectfully submitted,

Karen L. Potesta

Karen L. Potesta, Secretary-Treasurer and Executive Director of 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

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

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.

1290103DOC.90

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Nov 20, 1990
ADMINISTRATIVE LAW DIVISION

BOWLES RICE
McDAVID GRAFF & LOVE

ATTORNEYS AT LAW

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November 19, 1990

Ms. Judy Cooper, Director
Administrative Law Division
Office of the Secretary of State
State of West Virginia
State Capitol
Charleston, WV 25305

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

Dear Ms. Cooper:

Please find enclosed a copy of the above-referenced Proposed Legislative Rule with the modifications requested by Debra A. Graham, Counsel to the Legislative Rule-Making Review Committee. Also enclosed, please find a copy of the Brief Summary of the Contents of the Proposed Legislative Rule and Statement of the Circumstances Which Require the Rule.

The foregoing are submitted to you at the direction of Ms. Graham. As discussed in our recent telephone conversation, I understand that I should submit a Notice of Rule Modification of a Proposed Rule, Form No. 4, after the Legislative Rule-Making Review Committee has approved the Proposed Legislative Rule, as modified.

If you have any questions or comments regarding the foregoing, please contact the undersigned at your convenience. Thank you for your cooperation.

Very truly yours,

Camden P. Siegrist

CPS/spg
cc: Karen L. Potesta, Executive Director

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FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Nov 20, 1990
ADMINISTRATIVE LAW DIVISION

PROPOSED 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 Proposed Legislative Rule

The subject Proposed 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 Proposed Legislative Rule clarifies these issues.

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FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Nov 20, 1990
ADMINISTRATIVE LAW DIVISION

PROPOSED 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.

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 -

1.4. Effective Date -

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

<u>Annual Fee</u>

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):

<u>Initial Fee</u>

$ 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

<u>Annual Fee</u>

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

For Refunding Bonds of the Authority:

<u>Initial Fee</u>

$2,000.00

<u>Annual Fee</u>

Maximum of 1/20th of 1% <u>of bonds outstanding</u>

(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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PROPOSED 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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