

SB 40

RECEIVED
96 MAR 23 PM 4:10
LEGISLATIVE SERVICES DIVISION
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

Committee SUBSTITUTE FOR
SENATE BILL NO. 40

(By Senator OLIVERIO, ET AL)



PASSED MARCH 9, 1996
In Effect FROM Passage

RECEIVED

56 MAR 25 11 4: 10

OFFICE OF THE
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 40

(SENATORS OLIVERIO, CRAIGO, MANCHIN AND TOMBLIN, MR.
PRESIDENT, *original sponsors*)

[Passed March 9, 1996; in effect from passage.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-four, relating to establishing the technology-related assistance revolving loan fund for individuals with disabilities and the technology-related assistance revolving loan fund for individuals with disabilities board; providing short title, defining certain terms; providing for the membership of the technology-related assistance revolving loan fund for individuals with disabilities board and its powers, duties and compensation; allowing a nonprofit, consumer-driven organization as contracted by the board and other related associations to develop criteria for funds; providing for disbursement of the revolving loan fund money; setting forth the minimum amount of interest the board may

charge; including a provision regarding funding; setting a cap on the maximum amount which may be expended from the fund for administrative expenses; and specifying maximum time such loans may be outstanding.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-four, to read as follows:

ARTICLE 24. TECHNOLOGY-RELATED ASSISTANCE REVOLVING LOAN FUND FOR INDIVIDUALS WITH DISABILITIES ACT.

§29-24-1. Legislative findings and declarations.

1 Individuals with disabilities comprise a significant and
2 increasing percentage of West Virginia's population. The
3 Legislature finds and declares that action is necessary to
4 assist these individuals in their homes, schools, employ-
5 ment and communities to become more independent
6 citizens of the state. Many of these individuals require
7 technology-related devices and technology-related
8 services in order to perform functions, such as caring for
9 themselves, performing manual tasks, mobility, seeing,
10 hearing, speaking, breathing and learning in order to
11 have the ability to more independently participate in
12 society and the work force. In order to meet present and
13 increasing needs of West Virginians for technology-
14 related devices and technology-related services, it is
15 necessary for the state to provide funds that neither
16 supplant nor replace existing state or federal funds for
17 the technology-related revolving loan fund for individu-
18 als with disabilities.

§29-24-2. Terms defined.

- 1 As used in this article, the term:
- 2 (a) "Board" means the technology-related assistance
3 revolving loan fund for individuals with disabilities
4 board.
- 5 (b) "Individual with disability" means any individual,

6 of any age who, for the purposes of state or federal law,
7 is considered to have a disability or handicap, injuries
8 and chronic health conditions, whether congenital or
9 acquired; and who is or would be enabled by technology-
10 related devices or technology-related services to main-
11 tain or improve his or her ability to function in society
12 and the workplace.

13 (c) "Qualifying borrower" means any individual with
14 disabilities and their family members, guardians, autho-
15 rized representatives or nonprofit entity who demon-
16 strates that such a loan will improve their independence
17 or become more productive members of the community.
18 The individual must demonstrate credit worthiness and
19 repayment abilities to the satisfaction of the board. No
20 more than twenty-percent of all loan funds are to be
21 provided to nonprofit entities in a single year.

22 (d) "Technology-related assistance" means either the
23 provision of technology-related devices or technology-
24 related services to improve the independence, quality of
25 life or productive involvement in the community of
26 individuals with disabilities.

27 (e) "Technology-related device" means any item, piece
28 of equipment or product system, whether acquired
29 commercially off-the-shelf, modified or customized, that
30 is used to increase, maintain or improve functional
31 capabilities of individuals with disabilities.

32 (f) "Technology-related service" means any service
33 that directly assists an individual with a disability in the
34 selection, acquisition or use of a technology-related
35 device, including:

36 (1) The evaluation of the needs of an individual with a
37 disability, including a functional evaluation in the
38 individual's customary environment;

39 (2) Purchasing, leasing or otherwise providing for the
40 acquisition of technology-related devices by individuals
41 with disabilities;

42 (3) Selecting, designing, fitting, customizing, adapting,
43 applying, maintaining, repairing or replacing
44 technology-related devices;

45 (4) Coordinating and using other therapies, interven-
46 tions or services with technology-related devices, such as
47 those associated with existing education and rehabilita-
48 tion plans and programs; and

49 (5) Training or technical assistance for individuals or
50 the family of an individual with disabilities.

51 (g) "Revolving loan fund" means the technology-
52 related assistance loan fund for individuals with disabil-
53 ities established in this article.

54 (h) "Consumer" means individuals with disabilities
55 and, when appropriate, their family members, guardians,
56 advocates or authorized representatives.

§29-24-3. Board created, membership, terms, officers and staff.

1 (a) There is established the technology-related assis-
2 tance revolving loan fund for individuals with disabili-
3 ties board that shall contract to a nonprofit, consumer-
4 driven organization for administrative purposes only.

5 (b) The board shall consist of seven members of which
6 at least three must be individuals with disabilities and
7 appointed by the secretary of education and the arts as
8 follows:

9 (1) Director of division of rehabilitation services or his
10 or her designee;

11 (2) A representative of the banking industry;

12 (3) A representative of the medical profession;

13 (4) A certified public accountant; and

14 (5) Three additional members from the public-at-large
15 shall be consumers. Members shall be appointed by the
16 governor, by and with the advice and consent of the
17 Senate, for terms of three years, their initial appoint-

18 ments, however, being three for three-year terms, two for
19 two-year terms and two for one-year terms: *Provided*,
20 That the governor may not appoint any members to this
21 board until the Legislature has made an appropriation in
22 a sufficient amount to cover the expenses of this board.
23 State officers or employees may be appointed to the
24 board unless otherwise prohibited by law. To be eligible
25 for appointment to the board, the citizen members shall
26 demonstrate knowledge in the area of technology-related
27 assistance as users or providers of the rehabilitative
28 services to the extent practicable. The board shall
29 approve all proposed rules and the established nonprofit
30 consumer-driven organization shall then promulgate and
31 implement same.

32 (c) In the event a board member fails to attend
33 twenty-five percent of the scheduled meetings in a
34 twelve-month period, the board may elect to remove that
35 member after written notification to that member and
36 the secretary of education and the arts.

37 (d) In the event of death, resignation, disqualification
38 or removal for any reason of any member of the board,
39 the vacancy shall be filled in the same manner as the
40 original appointment and the successor shall serve for
41 the unexpired term.

42 (e) The initial terms for all members shall be on the
43 first day of July, one thousand nine hundred ninety-
44 seven.

45 (f) Membership on the board does not constitute public
46 office and no member shall be disqualified from holding
47 public office by reason of his or her membership.

48 (g) The board shall elect from its membership a chair-
49 person, treasurer and secretary as well as any other
50 officer as appropriate. The term of the "chairperson" is
51 for two years in duration and he or she cannot serve
52 more than two consecutive terms.

53 (h) The board has the power and authority to establish
54 an appeals process with regards to the administration of

55 the fund. The selected nonprofit, consumer-driven
56 organization contracted by the board shall submit to the
57 board proposed rules governing the operation of the fund
58 including, but not limited to, eligibility of receipt of
59 funds and all other matters consistent with and neces-
60 sary to accomplishing the purpose of this fund.

61 (i) The board may contract to a nonprofit entity to be
62 the authority to carry out the purposes of this article.
63 The compensation of personnel shall be paid from
64 moneys in the loan fund. Board personnel may be
65 members of the state civil service system. The board
66 shall utilize existing state resources and staff of partici-
67 pating departments whenever practicable. Personnel
68 expenses and other costs authorized in this subsection
69 shall be paid from moneys in the revolving loan fund.
70 Administrative costs are not to exceed ten percent of the
71 revolving loan funds yearly budget.

§29-24-4. Compensation and expenses of board.

1 Members of the board shall receive a compensation in
2 an amount not to exceed the state per diem for each day
3 the member of the board is in attendance at a meeting of
4 the board, plus either reimbursement for actual trans-
5 portation cost while traveling by public carrier or the
6 same mileage allowance for use of a personal car in
7 connection with such attendance as members of the
8 Legislature receive. Members with disabilities shall be
9 compensated for costs associated with personal assis-
10 tance, interpreters and disability related accommoda-
11 tions for the purpose of conducting the business of the
12 board. Expense allowances and other costs authorized
13 in this section shall be paid from moneys in the loan
14 fund.

**§29-24-5. Power, duties and responsibilities of the board;
loans.**

- 1 (a) The board shall do all of the following:
- 2 (1) Meet at such times (minimum of four times each
3 fiscal year) and at places as it determines necessary or

4 convenient to perform its duties. The board shall also
5 meet on the call of the chairperson or secretary of
6 education and the arts;

7 (2) Maintain written minutes of its meetings;

8 (3) Adopt rules for the transaction of its business;

9 (4) Promulgate rules to carry out the purposes of this
10 chapter, which ensure that individuals, profit and
11 nonprofit corporations and partnerships are eligible for
12 loans;

13 (5) Receive, administer and disburse funds to support
14 purposes established by this chapter and contract with
15 nonprofit, consumer-based groups dealing with individ-
16 uals with disabilities to assist in administering programs
17 established by this chapter;

18 (6) Maintain detailed records of all expenditures of the
19 board, funds received as gifts and donations and dis-
20 bursements made from the revolving loan fund;

21 (7) During the first three years of operation of the fund,
22 the contracted nonprofit consumer-driven organization
23 shall submit to the secretary of education and the arts
24 and the board annually a summary report concerning
25 programmatic and financial status of the technology
26 revolving loan fund. Future year annual reports will be
27 provided to the board;

28 (8) Develop and implement a comprehensive set of
29 financial standards to ensure the integrity and account-
30 ability of all funds received as well as loan funds dis-
31 bursed; and

32 (9) Conform to the standards and requirements pre-
33 scribed by the state auditor.

34 (b) The board shall enter into loan agreements with any
35 qualifying borrower, who demonstrates that:

36 (1) The loan will assist one or more individuals with
37 disabilities in improving their independence, productiv-
38 ity and full participation in the community; and

39 (2) The applicant has the ability to repay the loan. Any
40 necessary loan limitation shall be determined by the
41 board. All loans must be repaid within such terms and
42 at such interest rates as the board may determine to be
43 appropriate. However, no loan may extend beyond sixty
44 months from date of award and may be paid off anytime
45 without prepayment penalty. The board shall determine
46 the interest rate to be charged on loans made pursuant to
47 this article, but in no event may the interest rate on any
48 such loans be less than four per centum per annum.

49 (c) The board may authorize loans up to ninety percent
50 of the cost of an item or items.

51 (d) The board may award loans to qualifying borrowers
52 for purposes, including, but not limited to, the following:

53 (1) To assist one or more individuals with disabilities
54 to improve their independence through the purchase of
55 technology-related devices; and

56 (2) To assist one or more individuals with disabilities
57 to become more independent members of the community
58 and improve such individuals quality of life within the
59 community through the purchase of technology-related
60 devices.

61 (e) In the event of the failure of the borrower to repay
62 the loan balance due and owing, the board shall seek to
63 recover the loan balance by such legal or administrative
64 action available to it. Persons or representatives of
65 persons who default on a loan are not eligible for a new
66 loan. The board shall retain ownership of all property,
67 equipment or devices until the borrowers loan is paid-in-
68 full.

69 (f) A new loan may not be issued to, or on behalf of, a
70 disabled person if a previous loan made to, or on behalf
71 of, such person remains unpaid.

72 (g) The board may charge a fee for loan applications
73 and processing. All funds generated by fee charges shall
74 be directly placed into the revolving loan fund to off-set

75 the costs of application processing.

76 The board may accept federal funds granted by Con-
77 gress or executive order for the purposes of this chapter
78 as well as gifts and donations from individuals, private
79 organizations or foundations. The acceptance and use of
80 federal funds does not commit state funds and does not
81 place an obligation upon the Legislature to continue the
82 purposes for which the federal funds are made available.
83 All funds received in the manner described in this article
84 shall be deposited in the revolving loan fund to be
85 disbursed as other moneys in the revolving loan fund.

§29-24-6. Disbursements.

1 Loans may be made for amounts ranging from a
2 minimum of five hundred dollars to a maximum of five
3 thousand dollars. The loan must be used to purchase
4 essential equipment or directly related services that will
5 assist the person with a disability to overcome barriers
6 in daily living.

§29-24-7. Fund created.

1 The technology-related assistance revolving loan fund
2 for individuals with disabilities is created as a separate
3 fund and placed with a selected bank or credit union.
4 The revolving loan fund may be expended only as
5 provided in this chapter. All amounts in this fund shall
6 be expended only upon appropriation by the Legislature,
7 and nothing contained herein may be construed to
8 require any level of funding by the Legislature.

§29-24-8. Deposits created by the board.

1 The board shall credit to the revolving loan fund all
2 amounts paid, appropriated or donated to the revolving
3 loan fund. All funds shall be deposited with, maintained
4 and administered by a commercial bank or credit union
5 and shall contain appropriations provided for that
6 purpose, interest accrued on loan balances, fees charged
7 and funds received in repayment of loans.

§29-24-9. Priority of fund use.

1 The moneys collected in the revolving loan fund shall
2 be used only for the following purposes:

3 (a) Implementing revolving loan program for technol-
4 ogy-related devices;

5 (b) Providing technology-related devices to individuals
6 with severe disabilities who meet economic criteria
7 established by the board;

8 (c) Providing support for technology-related assistance;

9 (d) Providing technology-related and disability preven-
10 tion education and research;

11 (e) Disseminating public information;

12 (f) Conducting program evaluation and needs assess-
13 ment;

14 (g) Operating the board;

15 (h) Conducting research and demonstration projects,
16 including new and future uses of technology-related
17 services; and

18 (i) Developing a strategic plan.

19 All unexpended moneys contained in this fund at the
20 end of the fiscal year shall be carried forward from year
21 to year.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schroyer
.....
Chairman Senate Committee

Rudy DeLuca
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

David Edwards
.....
Clerk of the Senate

Bryson D. Gray
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Paul E. Baker
.....
Speaker House of Delegates

The within *is approved* this the *25th*
day of *March*, 1996.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/96

Time 3:50 pm