WEST VIRGINIA CODE CHAPTER 31 ARTICLE 15

WV Legislature

§31-15-1. Short title.

This article shall be known and may be cited as "The West Virginia Economic Development Authority Act."

WV Legislature

§31-15-2. Legislative findings.

It is hereby determined and declared as a matter of legislative finding: (a) That unemployment exists in many areas of the state and may well come about, from time to time, in other areas of the state; (b) that in some areas of the state, unemployment is a serious problem and has been for so long a period of time that, without remedial measures, it may become so in other areas of the state; (c) that economic insecurity due to unemployment is a serious menace to the health, safety, morals and general welfare of the people of the entire state; (d) that widespread industry unemployment produces indigency which falls with crushing force upon all unemployed workers and ultimately upon the state in the form of welfare and unemployment compensation; (e) that the absence of employment and business opportunities for youth is a serious threat to the strength and permanence of their faith in our American political and economic institutions and the philosophy of freedom on which those institutions are based; (f) that lack of employment and business opportunities has resulted in thousands of workers and their families leaving the state to find such opportunities elsewhere and that this exodus has adversely affected the tax base of counties and municipalities resulting in an impairment of their financial ability to support education and other local government services; (g) that security against unemployment and the spread of indigency and economic stagnation can best be provided by the promotion, attraction, stimulation, rehabilitation and revitalization of commerce, tourism, industry and manufacturing; (h) that the present and future health, safety, morals, right to gainful employment and general welfare of the people of the state require as a public purpose the promotion and development of new and expanded coal and other energy production, industrial, commercial, tourist and manufacturing enterprises within this state; (i) that the means and measures being authorized for the financing of projects, including the insuring of loans or other debt issued for working capital or the refinancing of existing debt of an enterprise, are, as a matter of public policy, for the public purposes of the several counties, municipalities and the state; (j) that the device under which private community industrial development organizations in the state acquire or build industrial buildings or sites and equip the same with funds raised through popular subscription, loans or otherwise for lease and sale to new or expanding industries has proven effective in creating new employment and business opportunities locally, is in accord with the American tradition of community initiative and enterprise and requires and deserves encouragement and support from the state as a means toward alleviation of unemployment and economic distress; (k) that community industrial development corporations in the state have invested substantial funds in successful coal production, industrial projects and are experiencing difficulty in undertaking additional projects by reason of the partial inadequacy of their own funds potentially available from local subscription sources and by reason of limitations of local financial institutions in providing additional and sufficiently sizable first deed of trust or mortgage loans or letters of credit and other forms of credit enhancement; (l) that minority business ownership, especially among African-Americans in the area of Charleston, West Virginia, is proportionately less than minority business ownership nationwide and statewide, the unemployment rate for African-Americans recently has been about twice the unemployment rate for caucasians and significantly higher in some counties with a greater

WV Legislature

concentration of African-Americans and an urgent need exists to encourage African-Americans and minority business ownership and higher employment; (m) that an urgent need exists to stimulate a larger flow of private investment funds from banks, investment houses, insurance companies and other financial institutions into projects; (n) that by increasing the number of projects presenting attractive opportunities for private investment, a larger portion of the private capital available in this state for investment can be put to use for the general economic development of the state; (o) that the availability of financial assistance through the creation of an insurance fund will promote the economic development of the state; and that it is in the public interest, in order to address the needs aforesaid, that a state instrumentality be created as a public body corporate with full powers to accept grants, gifts and appropriations, to generate revenues, to borrow money and issue its bonds, notes, commercial paper, other debt instruments and security interests to the end that funds obtained thereby may be used to furnish money and credit to approved industrial development agencies or enterprises or to promote the establishment of new projects or to retain existing projects.

WV Legislature

§31-15-3. Purposes of article.

The purposes of this article shall be to provide for the formation of a public economic development authority to promote, assist, encourage and, in conjunction with such banking corporations or institutions, trust companies, savings banks, building and loan associations, insurance companies or related corporations, partnerships, foundations, nonprofit organizations or other institutions, to develop and advance the business prosperity and economic welfare of the State of West Virginia; to encourage and assist in the location of new business and industry; to stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the economic stability of this state, provide maximum opportunities for employment, encourage thrift and improve the standard of living of the citizens of this state; to cooperate and act in conjunction with other organizations, public or private, the objects of which are the promotion and advancement of industrial, commercial, tourist or manufacturing developments in this state; to borrow moneys and to issue its bonds, notes, commercial paper, other debt instruments and security interests as well as creating an insurance fund for credit enhancement purposes; to furnish money and credit or credit enhancement to approved industrial development agencies or enterprises in this state or for the promotion of new projects or to retain existing projects or to financially assist projects by insuring bonds, notes, loans and other instruments, including, but not limited to, the insuring of financing of working capital or the refinancing of existing debt of an enterprise, thereby establishing a source of credit and credit enhancement not otherwise available; to review state procurement policies and practices to assure that they meet federal and state requirements and that they effectively encourage meaningful participation of African-Americans and other minority persons in the process of competing for and awarding of state contracts for goods and services; to encourage the state to continue to support and expand small business incubator programs, including the program at institutions of higher education in the state; to encourage new and minority small business development; to undertake initiatives to encourage minority business ownership similar to those efforts used to encourage greater rates of business ownership among women; to assist community and economic development corporations to provide effective technical and business advisory services to minority-owned and -operated enterprises; to encourage industry, banks and other private businesses to hire African-Americans and other minority persons; to encourage governmental agencies and bodies and businesses to be more aggressive in establishing diversity-conscious practices as employers and for their operations; to enlist traditional and nontraditional lending institutions to be more creative and favorable to lending in minority communities and to minority persons, especially for business enterprises; to encourage small business start-up and expansion and provide funding to assist minority vendors to meet bid bonding requirements; and to encourage workforce investment boards to be accountable for educating poor and minority persons for jobs better than low-paying service jobs. These purposes are hereby declared to be public purposes for which public money may be spent and are purposes which will promote the health, safety, morals, right to gainful employment, business opportunities and general welfare of the inhabitants of the state.

www.legislature

§31-15-3a. West Virginia industry and jobs development corporation abolished; establishment of economic development authority as successor to corporation.

The authority shall be the corporate successor to the West Virginia industry and jobs development corporation and is hereby vested with all right, title and interest of such corporation in and to all property, rights and choses in action heretofore owned by or vested in such corporation, including, but not limited to, its loan portfolio, and shall assume all debts, liabilities and other obligations, if any, of such corporation. As of the effective date of this legislation, such corporation shall cease to exist and all rights and interests heretofore vested in such corporation shall be vested in the authority.

The unexpended balance of funds authorized under section seventeen, article one, chapter five-c of this code available for use of the West Virginia industry and jobs development corporation as of the effective date of this legislation is hereby transferred to the authority.

WV Legislature

§31-15-4. Definitions.

Unless the context clearly indicates otherwise, as used in this article:

(a) "Authority" means the West Virginia economic development authority;

(b) "Board" means the governing body of the authority;

(c) "Board of investments" means the Board of Investments established by article six, chapter twelve of this code;

(d) "Bonds" means bonds or other debt instruments of the authority issued under this article, whether the interest thereon is taxable or tax-exempt for federal income tax purposes;

(e) "Business plan" means a document detailing the sales, production and distribution plans of an enterprise, together with the expenditures necessary to carry out those plans (including budget and cash flow projections) on an annual basis, and an employment plan setting forth steps to be taken by the enterprise to retain jobs or reduce unemployment in this state;

(f) "Costs of establishing an industrial development project" means the cost of acquiring existing facilities, cost of machinery, cost of equipment and fixtures, the cost of construction ,including with out limitation, cost of improvements, repairs, and renovations, costs of all lands, water areas, property rights and easements, financing charges, interest prior to and during construction, cost of architectural, engineering, legal and financial or other consulting services, plans, site assessments, site remediation costs, specifications and surveys, estimates of costs and any other expenses necessary or incident to determining the feasibility or practicability of any project, together with such other costs and expenses as may be necessary or incidental to the financing and the construction or acquisition of the project and the placing of the same in operation;

(g) "County" means any county of this state;

(h) "Enterprise" means an entity which is or proposes to be engaged in this state in any business activity for profit. The entity may be owned, operated, controlled or under the management of a person, partnership, corporation, trust, community-based development organization or council, local commerce group, employee stock ownership plan, pension or profit-sharing plan, a group of participating employees who desire to own an entity which does not presently exist, or any similar entity or organization;

(i) "Federal agency" means the United States of America and any department, corporation, agency or instrumentality created, designated or established by the United States of America;

(j) "Financing plan" means a plan designed to meet the financing needs of an enterprise as reflected in the business plan; (k) "Fund" means the economic development fund provided

WV Legislature

for in section twenty-three of this article;

(l) "Government" means state and federal government, and any political subdivision, agency or instrumentality thereof, corporate or otherwise;

(m) "Industrial development agency" means any incorporated organization, foundation, association or agency to whose members or shareholders no profit inures, which has as its primary function the promotion, encouragement and development of industrial, commercial, manufacturing and tourist enterprises or projects in this state;

(n) "Insurance fund" means the insurance fund created in this article;

(o) "Loan" means an extension of financing by the authority to an industrial development agency or an enterprise, including, but not limited to, a loan, a lease or an installment sale;

(p) "Municipality" means any city or town in this state;

(q) "Notes" means any notes, including commercial paper, of the authority issued under this article whether the interest thereon is taxable or tax-exempt for federal income tax purposes;

(r) "Project" means a commercial or industrial undertaking and all of the assets reasonably and necessarily required therefor, all as determined by the authority, which determination shall be conclusive, and shall include, without limiting the generality of the foregoing, industrial projects and commercial projects as presently defined in section three, article two-c, chapter thirteen;

(s) "Revenues" means all fees, premiums, charges, moneys, profits, payment or principal of or interest on, loans and other investments, gifts, grants, appropriations, contributions and all other income derived or to be derived by the authority under this article; and

(t) "Security interest" means an interest in the loan portfolio of the authority which interest is secured by an underlying loan or loans and is evidenced by a note issued by the authority.

WV Legislature

§31-15-5. West Virginia economic development authority; composition; appointment; terms; delegation of authority by chairman; voting; compensation and expenses.

(a) The West Virginia Economic Development Authority is continued as a body corporate and politic, constituting a public corporation and government instrumentality.

(b) The authority shall be composed of a board of members consisting of a chairperson, who shall be the Governor, or his or her designated representative, the State Treasurer, or his or her designated representative, the Tax Commissioner, and seven members who shall be appointed by the Governor, by and with the advice and consent of the Senate, and who shall be broadly representative of the geographic regions of the state. One member of the House of Delegates to be appointed by the Speaker and one member of the Senate to be appointed by the President shall serve on the board in an advisory capacity as ex officio, nonvoting members. The board shall direct the exercise of all the powers given to the authority in this article. The Governor shall also be the chief executive officer of the authority, and shall designate the treasurer and the secretary of the board.

(c) As appointments expire, each subsequent appointment shall be for a full four-year term. Any member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member is eligible for reappointment.

(d) The Governor may, by written notice filed with the secretary of the authority, from time to time, delegate to any subordinate the power to represent him or her at any meeting of the authority. In that case, the subordinate has the same power and privileges as the Governor and may vote on any question.

(e) Members of the authority are not entitled to compensation for services performed as members, but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

(f) A majority of the members constitutes a quorum for the purpose of conducting business. Except in the case of a loan or insurance application or unless the bylaws require a larger number, action may be taken by majority vote of the members present. Approval or rejection of a loan or insurance application shall be made by majority vote of the full membership of the board.

(g) The board shall manage the property and business of the authority and may prescribe, amend, adopt, and repeal bylaws and rules and regulations governing the manner in which the business of the authority is conducted.

(h) The board shall, without regard to the provisions of civil service laws applicable to officers and employees of the State of West Virginia, appoint any necessary managers, assistant managers, officers, employees, attorneys, and agents for the transaction of its

WV Legislature

business, fix their compensation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed at the discretion of the board. The authority may reimburse any state spending unit for any special expense actually incurred in providing any service or the use of any facility to the authority.

(i) The board may delegate to the executive director the authority to make and execute all contracts and other agreements or instruments necessary to carry out the duties and powers of the authority, as provided in this article: *Provided*, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this code, for banking goods or services without approval of the State Treasurer, in accordance with §12-1-1 *et seq*. of this code.

(j) In cases of any vacancy in the office of a voting member, the vacancy shall be filled by the Governor. Any member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of the term.

(k) The Governor may remove a member in the case of incompetence, neglect of duty, gross immorality, or malfeasance in office, and may declare the member's office vacant and appoint a person for the vacancy as provided in other cases of vacancy.

(l) The secretary of the board shall keep a record of the proceedings of the board and perform any other duties determined appropriate by the board. The treasurer shall be custodian of all funds of the authority and shall be bonded in the amount designated by other members of the board.

WV Legislature

§31-15-6. General powers of authority.

The authority, as a public corporation and governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purposes of this article, including the power:

(1) To cooperate with industrial development agencies in efforts to promote the expansion of industrial, commercial, manufacturing, and tourist activity in this state.

(2) To determine, upon the proper application of an industrial development agency or an enterprise, whether the declared public purposes of this article have been or will be accomplished by the establishment by such agency or enterprise of a project in this state.

(3) To conduct examinations and investigations and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter relevant to this article and necessary for information on the establishment of any project.

(4) To issue subpoenas requiring the attendance of witnesses and the production of books and papers relevant to any hearing before such authority or one or more members appointed by it to conduct any hearing.

(5) To apply to the circuit court having venue of such offense to have punished for contempt any witness who refuses to obey a subpoena, to be sworn or affirmed, or to testify or who commits any contempt after being summoned to appear.

(6) To authorize any member of the authority to conduct hearings, administer oaths, take affidavits, and issue subpoenas.

(7) To financially assist projects by insuring obligations in the manner provided in this article through the use of the insurance fund.

(8) To finance any projects by making loans to industrial development agencies or enterprises upon such terms as the authority shall deem appropriate: *Provided*, That nothing contained in this subsection or under any other provision in this article shall be construed as permitting the authority to make loans for working capital: *Provided, however*, That nothing contained in this article shall be construed as prohibiting the authority from insuring loans for working capital made to industrial development agencies or to enterprises by financial institutions: *Provided further*, That nothing contained in this subsection or any other provision of this article shall be construed as permitting the authority to refinance existing debt except when such refinancing will result in the expansion of the enterprise whose debt is to be refinanced or in the creation of new jobs: And provided further, That nothing contained in this subsection or any other provision of this article shall be construed as prohibiting the authority from making working capital loans from a revolving loan fund capitalized with federal grant funds including, but not limited to, federal grant funds received from the United States Economic Development Administration.

WV Legislature

(9) To issue revenue bonds or notes to fulfill the purposes of this article, and to secure the payment of such bonds or notes, all as hereinafter provided.

(10) To issue and deliver revenue bonds or notes in exchange for a project.

(11) To borrow money for its purposes and issue bonds or notes for the money and provide for the rights of the holders of the bonds or notes or other negotiable instruments, to secure the bonds or notes by a deed of trust on, or an assignment or pledge of, any or all of its property and property of the project, including any part of the security for loans, and the authority may issue and sell its bonds and notes, by public or private sale, in such principal amounts as it shall deem necessary to provide funds for any purposes under this article, including the making of loans for the purposes set forth in this article.

(12) To maintain such sinking funds and reserves as the board shall determine appropriate for the purposes of meeting future monetary obligations and needs of the authority.

(13) To sue and be sued, implead and be impleaded, and complain and defend in any court.

(14) To adopt, use, and alter a corporate seal.

(15) To make, amend, repeal, and adopt both bylaws and rules and regulations for the management and regulation of its affairs.

(16) To appoint officers, agents, and employees and to contract for and engage the services of consultants.

(17) To make contracts and to execute all instruments necessary to carry out the powers and duties of the authority, as provided in this article: *Provided*, That the provisions of §5A-3-3 of this code do not apply to contracts made pursuant to this subdivision: *Provided, however*, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this code, for banking goods and services without approval of the State Treasurer, in accordance with §12-1-1 *et seq*. of this code.

(18) To accept grants and loans from and enter into contracts and other transactions with any federal agency.

(19) To take title by conveyance or foreclosure to any project where acquisition is necessary to protect any loan previously made by the authority and to sell, by public or private sale, transfer, lease, or convey such project to any enterprise.

(20) To participate in any reorganization proceeding pending pursuant to the United States Code (being the act of Congress establishing a uniform system of bankruptcy throughout the United States, as amended) or in any receivership proceeding in a state or federal court for the reorganization or liquidation of an enterprise. The authority may file its claim against any such enterprise in any of the foregoing proceedings, vote upon any questions pending

www.legislature

therein which requires the approval of the creditors participating in any reorganization proceeding or receivership, exchange any evidence of such indebtedness for any property, security, or evidence of indebtedness offered as a part of the reorganization of such enterprise or of any other entity formed to acquire the assets thereof and may compromise or reduce the amount of any indebtedness owing to it as a part of any such reorganization.

(21) To acquire, construct, maintain, improve, repair, replace, and operate projects within this state, as well as streets, roads, alleys, sidewalks, crosswalks, and other means of ingress and egress to and from projects located within this state.

(22) To acquire, construct, maintain, improve, repair, and replace and operate pipelines, electric transmission lines, waterlines, sewer lines, electric power substations, waterworks systems, sewage treatment and disposal facilities, and any combinations thereof for the use and benefit of any enterprise located within this state.

(23) To acquire watersheds, water and riparian rights, rights-of-way, easements, licenses, and all other property, property rights, and appurtenances for the use and benefit of any enterprise located within this state.

(24) To acquire, by purchase, lease, donation, or eminent domain, any real or personal property, or any right or interest therein, as may be necessary or convenient to carry out the purposes of the authority. Title to all property, property rights, and interests acquired by the authority shall be taken in the name of the authority.

(25) To issue renewal notes, or security interests, to issue bonds to pay notes or security interests and, whenever it deems refunding expedient, to refund any bonds or notes by the issuance of new bonds or notes, whether the bonds or notes to be refunded have or have not matured and whether the authority originally issued the bonds or notes to be refunded.

(26) To apply the proceeds from the sale of renewal notes, security interests, or refunding bonds or notes to the purchase, redemption or payment of the notes, security interests, or bonds or notes to be refunded.

(27) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or services from the United States of America or from any governmental unit or any person, firm, or corporation, and to carry out the terms or provisions of, or make agreements with respect to, or pledge, any gifts or grants, and to do any and all things necessary, useful, desirable, or convenient in connection with the procuring, acceptance, or disposition of gifts or grants.

(28) To the extent permitted under its contracts with the holders of bonds, security interests, or notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, security interests, note or contract or agreement of any kind to which the authority is a party.

WV Legislature

(29) To sell loans, security interests, or other obligations in the loan portfolio of the authority. Such security interests shall be evidenced by instruments issued by the authority. Proceeds from the sale of loans, security interests, or other obligations may be used in the same manner and for the same purposes as bond and note revenues.

(30) To procure insurance against any losses in connection with its property, operations, or assets in such amounts and from such insurers as the authority deems desirable.

(31) To sell, license, lease, mortgage, assign, pledge, or donate its property, both real and personal, or any right or interest therein to another or authorize the possession, occupancy, or use of such property or any right or interest therein by another, in such manner and upon such terms as it deems appropriate.

(32) To participate with state and federal agencies in efforts to promote the expansion of commercial and industrial development in this state.

(33) To finance, organize, conduct, sponsor, participate, and assist in the conduct of special institutes, conferences, demonstrations, and studies relating to the stimulation and formation of business, industry, and trade endeavors.

(34) To conduct, finance, and participate in technological, business, financial, and other studies related to business and economic development.

(35) To conduct, sponsor, finance, participate, and assist in the preparation of business plans, financing plans, and other proposals of new or established businesses suitable for support by the authority.

(36) To prepare, publish, and distribute, with or without charge, as the authority may determine, such technical studies, reports, bulletins, and other materials as it deems appropriate, subject only to the maintenance and respect for confidentiality of client proprietary information.

(37) To exercise such other and additional powers as may be necessary or appropriate for the exercise of the powers herein conferred.

(38) To exercise all the powers which a corporation may lawfully exercise under the laws of this state.

(39) To contract for the provision of legal services by private counsel and, notwithstanding the provisions of §5-3-1 *et seq*. of this code, such counsel may, but is not limited to, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating thereto, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority.

(40) To develop, maintain, operate, and apply for the establishment of foreign trade zones

WV Legislature

pursuant to and in accordance with all applicable provisions of federal law.

(41) To exercise the powers and responsibilities previously vested in the State Building Commission by §5-6-11a of this code, including, but not limited to, the authority to refund bonds issued in accordance with said section.

(42) To manage the Jobs Investment Trust described in §12-7-1 *et seq*. of this code, and to exercise those powers and responsibilities previously vested in the Jobs Investment Trust Board, as outlined in §12-7-6 of this code.

WV Legislature

§31-15-6a. Special power of authority to transfer funds; limitations; fund created; use of funds to provide customized job training program by Governor's office of economic and community development.

(a) The Legislature finds and declares that in order to attract the new business and industry to this state and retain the business and industry in this state which provide the citizens of this state with economic security; to advance the business prosperity and economic welfare of this state and to assure a pool of qualified employees it is necessary that a training program exist to provide both unemployed and under-employed workers of this state a means to acquire or improve their working skills so as to insure availability of qualified employees that is fundamental for business and industry to prosper.

(b) The authority is hereby empowered to transfer to the special revenue fund herein created, a sum of money not to exceed $2,500,000, to be used by the Governors office of community development to establish, administer and operate a customized job training program. The authority may only make transfers to said fund between the time period commencing with the effective date of this section and ending June 30, 1991. Such transfers may only be made from repayments of principal amounts from loans made by the authority where such repayments of principal are available for such use and are not otherwise restricted. Transfers into the special revenue fund created above may be made at such times and in such amounts as the authority, in its discretion, deems reasonable: Provided, That the total amount of all such transfers may not exceed $2,500,000 in the aggregate.

(c) There is hereby created in the State Treasury a special revenue fund entitled the "Governor's Office of Community and Industrial Development Customized Job Training Program Fund." This fund shall consist of moneys paid into such fund in accordance with this section. Moneys in said fund shall be used by the Governors office of community and industrial development to establish and administer a customized job training program to meet the needs of expanding business and industry or to create new jobs, and the Governor's office of community and industrial development may make such withdrawals from this fund as required to establish and administer said customized job training program.

WV Legislature

§31-15-6b. Special power of authority to issue bonds or notes to repay and refinance capital investment of Investment Management Board in Regional Jail and Correctional Facility Authority; authorizing issuance of bonds to finance regional jail facilities, correctional facilities, juvenile facilities and state police facilities.

(a) The Legislature finds and declares that the Supreme Court of Appeals has determined and ordered that the Constitution of this state imposes a duty on behalf of the state to make significant improvements in the jail and correctional facility system, including the duty to make capital improvements to facilities and to pay for the cost of those improvements; that many of the existing facilities used by the West Virginia state police, including those facilities identified in section ten, article two, chapter fifteen of this code, are in need of significant capital improvement or replacement, and that in some cases the acquisition and construction of additional state police facilities is needed; that the acquisition and construction of the capital improvements identified in this subsection require that the cost of the facilities be financed over time; that section fifty-one, article six of the Constitution prohibits the Legislature amending the budget bill so as to create a deficit; that the enacting of new taxes, or the diversion of revenues from other essential departments and functions of government, in order to support capital improvements in regional jail facilities, correctional facilities, juvenile facilities and state police facilities is not in the interests of the people of the state represented in the Legislature, and is specifically rejected by the Legislature in its exercise of its legitimate Constitutional powers; that there have been previously funded certain regional jail facilities and correctional facilities through funds available for investment through the West Virginia Investment Management Board, the proceeds of which have and are being used by the Regional Jail and Correctional Facility Authority to finance the cost of capital improvements to regional jail facilities and correctional facilities, the repayment of such investment being made from transfers to the regional jail and correctional facility investment fund established under section twenty-one, article six, chapter twelve of this code, from funds on deposit in the insurance tax fund established under subsection (b), section fourteen, article three, chapter thirty-three of this code, such transfers undertaken in the manner set forth in subsection (c), section fourteen, article three, chapter thirty-three of this code; that the rate of return being paid under subsection (b), section twenty-one, article six, chapter twelve for the investment is subject to annual adjustment and theretofore subject to the volatility of the financial markets and it is anticipated that the rate of return paid on such investment will be in excess of the interest rate that would be payable with respect to bonds issued under this article to repay the investment, to make the capital improvements identified in this subsection, and to acquire or construct certain regional jail facilities, correctional facilities, juvenile facilities and state police facilities.

(b) To provide for (1) the repayment of all or a portion of the investment, (2) the financing of capital improvements to regional jail facilities, correctional facilities, juvenile facilities and state police facilities, (3) the financing of the acquisition of certain existing regional jail facilities, correctional facilities, juvenile facilities and state police facilities, (4) the financing of the acquisition and construction of new regional jail facilities, correctional facilities,

juvenile facilities and state police facilities, and (5) the payment of the costs of issuance of the bonds, bonds of the authority may be issued in accordance with the provisions of this article. Any bonds issued pursuant to the provisions of this section shall mature at a time or times not exceeding twenty-five years from their respective dates. In no event may the outstanding principal amount of the bonds exceed a total amount that would require annual debt service payments in excess of $16 million.

(c) (1) The proceeds from the sale of the bonds shall be allocated and expended for the following purposes in the following order of priority:

(A) For the costs of issuance of the bonds;

(B) For payment of the return of the investment made pursuant to section twenty-one, article six, chapter twelve of this code;

(C) For the costs of the projects included in the letter submitted by the Regional Jail and Correctional Facility Authority to the Joint Committee on Government and Finance dated April 1, two thousand one, pursuant to the amendment and reenactment of section twenty-one, article six, chapter twelve of this code in chapter sixty-six, acts of the Legislature, regular session, two thousand one: Provided, That the letter shall not be construed to prioritize any project or projects which are included in the letter;

(D) For the costs of completion of any other capital improvement projects for regional jail facilities, correctional facilities or juvenile facilities that may be determined by the Regional Jail and Correctional Facility Authority, subject to the provisions of subdivision (2) of this subsection. Prior to the expenditure of any funds for these additional projects, the Regional Jail and Correctional Facility Authority shall certify to the Joint Committee on Government and Finance a separate list of the additional projects to be funded from the bond proceeds. This certified list may not thereafter be altered or amended other than by legislative enactment; and

(E) For the costs of capital improvements to or the acquisition or construction of state police facilities: Provided, That no proceeds of the bonds may be expended for a state police facility purpose unless and until the Legislature by concurrent resolution has approved the purpose and amount of each project for which proceeds from the issuance of the bonds have been allocated under this subsection.

(2) From the balance of the proceeds of the bonds remaining after meeting the requirements of paragraphs (A) and (B), subdivision (1) of this subsection, an amount not less than $80 million shall be allocated for expenditure for the purposes set forth in paragraphs (C) and (D), subdivision (1) of this subsection. In the event the Regional Jail and Correctional Facility Authority determines that an amount less than $80 million is necessary for those purposes, the difference may be allocated for expenditure for the purposes and subject to the conditions set forth in paragraph (E), subdivision (1) of this subsection.

WV Legislature

(d) The economic development authority may lease facilities acquired or constructed pursuant to the provisions of this section to the Department of Administration.

(e) For purposes of this section, the terms "regional jail facilities", "correctional facilities" and "juvenile facilities" have the meanings set forth in section two, article twenty of this chapter.

WV Legislature

§31-15-6c. Neighborhood Housing and Economic Development Stabilization Program; authority to contract with Housing Development Fund; funding.

(a) It is hereby determined and declared, as a matter of legislative finding:

(1) Local housing initiatives offer a unique opportunity to revitalize and stimulate economic development in low income neighborhoods with high minority populations, which typically have high levels of unemployment and include a large number of distressed properties.

(2) Local housing initiatives may include, but are not limited to, demolition, rehabilitation, new construction, land purchases for development, affordable mortgage initiatives and related job training and community service activities.

(3) In order to promote a positive long-term economic impact on the community, an effective local housing initiative should include a job training component that is designed to provide additional educational and vocational job opportunities and foster the development of marketable skills among the people living within the targeted neighborhoods served by the program.

(4) If done as a part of a focused and coordinated effort, the rehabilitation or replacement of deteriorating residential properties or structures would enhance the value of other properties in the community and improve the overall quality of their neighborhood.

(5) A successful neighborhood revitalization and recovery program can attract new businesses and spur additional investment in the community.

(6) Using locally based or community based not-for-profit entities to spearhead local housing initiatives encourages the development of additional resources, leadership and administrative skills at a local level which, once in place, would continue to focus on the needs and revitalization of the targeted community, after the initial project is complete.

(7) It is reasonable and appropriate to establish a funding mechanism for selected qualifying entities to implement projects that are designed to revitalize and stimulate economic development in low income neighborhoods with relatively high minority populations.

(8) The effectiveness of the initial programs can best be assessed if significant funding is awarded to a limited number of qualifying programs serving targeted communities.

(9) The state would benefit from the development of a working model for stimulating economic development and neighborhood revitalization through local housing initiatives, so that it may be replicated in other parts of the state which have similar demographic and economic conditions.

(10) Substantial federal funds have been earmarked for housing stabilization and stimulating economic recovery, including but not limited to, housing rehabilitation, construction, upgrades and weatherization programs.

WV Legislature

(b) There is hereby established within the Economic Development Authority the Neighborhood Housing and Economic Development Stabilization Program. The purpose of the program is to provide loans, grants and forgivable loans to support and carry out local economic development initiatives and locally designed housing initiatives in minority neighborhoods with low-income demographics in this state. Housing initiatives funded by this program may include, but are not limited to, demolition, rehabilitation, new construction, land purchases for development, affordable mortgage initiatives and related job training and community service activities.

(c) To accomplish these objectives and to administer and distribute the funds provided by the Legislature for this purpose, the Economic Development Authority is authorized to contract with the Housing Development Fund to administer the Neighborhood Housing and Economic Stabilization Program.

(d) Upon the effective date of this section, the Economic Development Authority shall, upon appropriation by the Legislature, transfer $2.4 million from the Economic Development Project Bridge Loan Fund established in section eighteen-a, article twenty-two, chapter twenty-nine of this code to the Housing Development Fund. The fund will administer the program and distribute the funds to locally based West Virginia not-for-profit entities to operate local economic development initiatives and locally designed housing initiatives as described in this section. The project's funds shall be awarded through a statewide request for proposal solicitation issued by the Housing Development Fund, after requests for proposals have been reviewed and accepted by the authority.

(e) In awarding the funds, the Housing Development Fund shall give priority to proposals received from local not-for-profit organizations for low-income housing initiatives which include a job training component and promote the employment or utilization of people and businesses who reside within the targeted neighborhoods. A recipient organization must have written established guidelines to promote investment from within and outside the community where the neighborhood is located.

www.legislature

§31-15-7. Loans to industrial development agencies or enterprises for projects.

(a) When it has determined upon application of an industrial development agency or an enterprise that the establishment or acquisition of a particular project has accomplished or will accomplish the public purposes of this article, the authority may contract to loan such agency or enterprise up to one hundred percent of the estimated cost of such project from any or all of the following sources:

(1) The proceeds of bonds or notes issued by the authority pursuant to this article;

(2) Moneys in the fund available to make loans; or

(3) The investment in such loans by the Board of Investments through the consolidated fund of the state as provided in this article.

(b) Loans made under subsection (a) of this section shall be subject to the following conditions:

(1) If the authority is providing less than one hundred percent financing for the project, the authority shall determine that other sources of funds will be available to complete the project;

(2) The loan shall contain such terms and conditions as the authority deems appropriate, which terms and conditions shall be set forth in a resolution adopted by the board in accordance with the provisions of section ten of this article;

(3) The authority may, in its discretion, include within the terms of a loan minimum project operating periods, liquidated damage provisions for cessation of operations prior to the end of the loan period, loan acceleration provisions, project equipment purchase options in the event of early closure and other provisions to protect the jobs intended to be created by the project;

(4) The industrial development agency or enterprise shall pay such loan fees as may be prescribed by the authority from time to time pursuant to the provisions of this article.

Money loaned by the authority to an industrial development agency or enterprise pursuant to subdivisions (2) and (3), subsection (a) of this section seven shall be withdrawn from the fund and paid over to the agency or enterprise in such manner as shall be determined by the authority, and the authority shall deposit all payments of interest on such loans and the principal thereof in the fund.

WV Legislature

§31-15-7a.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7b.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7c.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7d.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7e.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7f.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7g.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7h.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7i.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7j.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7k.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7l.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7m.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7n.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7o.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7p.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7q.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-7r.

Repealed.

Acts, 1989 Reg. Sess., Ch. 54.

WV Legislature

§31-15-8. Insurance fund.

(a) There is hereby created an insurance fund which shall be a continuing, nonlapsing, revolving fund that consists of:

(1) Moneys appropriated by the state to the insurance fund;

(2) Premiums, fees, and any other amounts received by the authority with respect to financial assistance provided by the authority from the insurance fund;

(3) Upon the satisfaction of any indebtedness or other obligation owed on any property held or acquired by the authority, such proceeds as designated by the authority from the sale, lease, or other disposition of such property;

(4) Income from investments made from moneys in the insurance fund; and

(5) Any other moneys transferred to the insurance fund or made available to it for the purposes described under this section, under this article, or pursuant to any other provisions of this code.

(b) Subject to the provisions of any outstanding insurance agreements entered into by the authority under this section, the authority may enter into covenants or agreements with respect to the insurance fund and establish accounts within the insurance fund which may be used to implement the purposes of this article. If the authority elects to establish separate accounts within the insurance fund, the authority may allocate its revenues and receipts among the respective accounts in any manner the authority considers appropriate.

(c) If the authority at any time finds that more money is needed to keep the reserves of the insurance fund at an adequate level, the authority, with the consent of the chair, shall send a written request to the Legislature for additional funds.

(d) The insurance fund shall be used for the following purposes by the authority to financially assist projects so long as such financial assistance will, as determined by the authority, fulfill the public purposes of this article:

(1) To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on bonds or notes whether issued under this article or under the Industrial Development and Commercial Development Bond Act, the West Virginia Hospital Finance Authority Act or, with respect to health care facilities only, §8-33-1 *et seq*. of this code;

(2) To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on any instrument executed, obtained, or delivered in connection with the issuance and sale of bonds or notes whether under this article or under the Industrial Development and Commercial Development Bond Act, the West Virginia Hospital Finance Authority Act or, with respect to health care facilities only,

WV Legislature

§8-33-1 *et seq*. of this code;

(3) To insure the payment or repayment of all or any part of the principal of, prepayment premiums or penalties on, and interest on any form of debt instrument entered into by an enterprise, public body, or authority of the state with a financial institution, including, but not limited to, banks, insurance companies and other institutions in the business of lending money, which debt instruments shall include, but not be limited to, instruments relating to loans for working capital and to the refinancing of existing debt: *Provided*, That nothing contained in this subsection or any other provision of this article shall be construed as permitting the authority to insure the refinancing of existing debt except when such insurance will result in the expansion of the enterprise whose debt is to be refinanced or in the creation of new jobs;

(4) To pay or insure the payment of any fees or premiums necessary to obtain insurance, guarantees, letters of credit, or other credit support from any person or financial institution in connection with financial assistance provided by the authority under this section;

(5) To pay any and all expenses of the authority, including, but not limited to:

(A) Any and all expenses for administrative, legal, actuarial, and other services related to the operation of the insurance fund; and

(B) All costs, charges, fees, and expenses of the authority related to the authorizing, preparing, printing, selling, issuing, and insuring of bonds or notes (including, by way of example, bonds or notes, the proceeds of which are used to refund outstanding bonds or notes) and the funding of reserves; and

(6) To insure, for up to 20 years, the payment or repayment of all or any part of the principal of and interest on any form of debt instrument entered into by an eligible broadband provider with a financial institution, including, but not limited to, banks, insurance companies, and other institutions in the business of lending money, which debt instruments are to be solely for capital costs relating to the purposes authorized in §31-15-8a of this code: *Provided*, That loan moneys shall not be transferred to the fund except as authorized by §12-6C-11a or §31-15-23a of this code. All moneys transferred to the fund for the purpose of issuing broadband loan insurance shall be held in accounts that are separate and segregated from other moneys in the fund. Moneys transferred to the fund pursuant to §31-15-23a of this code which are no longer required for outstanding loan insurance obligations may be returned to the Economic Development Project Fund, along with any interest or earnings accruing to the account in which said moneys are held.

(e) Except as relating to insured portions of debt instruments under subdivision (6), subsection (d) of this section the total aggregate amount of insurance from the insurance fund with respect to the insured portions of principal of bonds or notes or other instruments may not exceed at any time an amount equal to five times the balance in the insurance fund.

WV Legislature

(f) The authority may, in its sole and absolute discretion, set the premiums and fees to be paid to it for providing financial assistance under this section. The premiums and fees set by the authority shall be payable in the amounts, at the time, and in the manner that the authority, in its sole and absolute discretion, requires. The premiums and fees need not be uniform among transactions and may vary in amount: (1) Among transactions; and (2) at different stages during the terms of transactions.

(g) The authority may, in its sole and absolute discretion, require the security it believes sufficient in connection with its insuring of the payment or repayment of any bonds, notes, debt, or other instruments described in subdivisions (1) through (4), subsection (d) of this section.

(h) The authority may itself approve the form of any insurance agreement entered into under this section or may authorize the chair or his or her designee to approve the form of any such agreement. Any payment by the authority under an agreement entered into by the authority under this section shall be made at the time and in the manner that the authority, in its sole and absolute discretion, determines.

(i) The obligations of the authority under any insurance agreement entered into pursuant to this article shall not constitute a debt or a pledge of the faith and credit or taxing powers of this state or of any county, municipality, or any political subdivision of this state for the payment of any amount due thereunder or pursuant thereto, but the obligations evidenced by such insurance agreement shall be payable solely from the funds pledged for their payment.

(j) On or before the 30th day of January, April, July, and October of each year, the authority shall prepare and submit to the Joint Committee on Government and Finance and the Governor a quarterly report which shall include, at a minimum:

(1) The aggregate outstanding amount of insurance issued from the insurance fund; and

(2) For each agreement to insure a debt or security instrument, the name of the parties to the agreement; the lending financial institution to which any insured debt or security instrument is owed; the total value of any insured debt or security interest; the maturity date of the insured debt or security instrument; and the status of the insured debt or security instrument, including whether the party to the insurance agreement is delinquent or in default on any insured debt or security instrument.

WV Legislature

§31-15-8a. Broadband Loan Insurance Program; requirements.

(a) Definitions. – For the purposes of this section:

(1) "Broadband Enhancement Council" or "council" refers to the governmental instrumentality established by §31G-1-3 of this code.

(2) "Broadband Loan Insurance Program" or the "program" refers to the program through which the authority issues loan insurance, as authorized by this section.

(3) "Broadband provider" or "provider" means a business or enterprise providing broadband service, as defined in §31G-1-2 of this code.

(4) "Debt instrument" means any note, loan agreement, or any other form of indebtedness whatsoever and shall expressly include a letter of credit or other agreement relating to a letter of credit.

(5) "Eligible broadband provider" means a business or enterprise certified, in writing, by the Broadband Enhancement Council to the authority to be a broadband provider, and that is not disqualified from participating in the Broadband Loan Insurance Program according to subdivision (4), subsection (c) of this section, as certified, in writing, by the authority.

(6) "Federally funded broadband expansion program" means the Rural Digital Opportunity Fund of the Federal Communications Commission; the Broadband ReConnect Program of the United States Department of Agriculture; the Broadband Equity, Access, and Deployment Program of the National Telecommunications and Information Administration; or any other federally funded broadband expansion or enhancement program that Congress may from time to time establish.

(7) "Financial institution" means the bank, insurance company, or other institution in the business of lending money, that conditions issuance of a debt or security instrument on loan insurance by the authority, as provided in subdivision (2), subsection (b) of this section.

(8) "Loan insurance" refers to an agreement to insure the payment or repayment of all or any part of the principal of and interest on a debt or security instrument.

(b) Insurance of certain debt or security instruments authorized. –

(1) The authority is authorized to insure, for up to 20 years, the payment or repayment of all or any part of the principal of and interest on any form of debt or security instrument entered into by an eligible broadband provider with a financial institution, which debt or security instruments are to be solely for capital costs relating to:

(A) A project which has as its principal purpose providing broadband service, as defined in §31G-1-2 of this code, to a household or business located in an unserved area, as defined in §31G-1-2 of this code, or to an underserved area meeting the following criteria:

WV Legislature

(i) Access to internet service is only available by wireline or fixed wireless technology; and

(ii) Access to internet service in which 15 percent or more of households and businesses cannot obtain internet service with an actual downstream or upstream data rate equivalent to or faster than the current definition of broadband service as defined by the Federal Communications Commission and further certified by the council; or

(B) A project which has as its principal purpose building a segment of a telecommunications network that links a network operator's core network to a local network plant that serves either an unserved area, as defined in §31G-1-2 of this code, or an area in which no more than two wireline providers are operating.

(2) The authority may not issue loan insurance to a provider, unless the participating financial institution provides written certification to the authority that, but for the authority's insuring the debt instrument, the financial institution would not otherwise make the loan based solely on the creditworthiness of the loan applicant: *Provided*, That nothing contained in this section or any other provision of this article may be construed as permitting the authority to insure the refinancing of existing debt.

(3) The authority may make the provision of loan insurance authorized by this section contingent upon the eligible broadband provider receiving an award under a federally funded broadband expansion program.

(4) To fund the loan insurance authorized by this section, the authority shall request a loan from the West Virginia Board of Treasury Investments, according to the requirements of §12-6C-11a of this code, or utilize funds in the Insurance Fund transferred pursuant to §31-15-23a(d)(5) of this code.

(5) The authority may not award an amount of loan insurance exceeding $50 million, in any single calendar year, to insure the debt or security instruments, or costs related thereto, of any one broadband provider.

(c) Insurance application requirements. –

(1) An eligible provider may apply to the authority for loan insurance. The authority shall make the application form or forms available to the public on its website.

(2) The application for loan insurance shall, at a minimum, require the applicant to submit:

(A) Proof of business ownership and other business registration information;

(B) Detailed information regarding all current, previous, and pending business debt, including any past instances of loan delinquency or default or any breach of a borrower covenant;

(C) Detailed records of the provider's financial history, including, but not limited to, tax

WV Legislature

returns and financial statements detailing the provider's income, cash flow, and account balances for the past five years;

(D) The number of persons employed by the provider and the names and contact information for all managers of the project to be insured;

(E) Detailed information regarding assets being presented as collateral, including, but not limited to, serial or identification numbers for all large value machinery, equipment, furniture and fixtures, inventory records, and accounts receivable;

(F) Detailed business plans, financial plans, and financial projections related to the broadband deployment project for which the applicant is requesting loan insurance; and

(G) Any additional information that is relevant to the provider's eligibility to receive loan insurance and the provider's ability to deploy broadband in the state, including, but not limited to, any required authorizations or determinations by any applicable regulatory bodies.

(3) The authority shall ensure that applicants are eligible to receive loan insurance and shall select applicants who demonstrate a minimal risk of default on any debt or security instrument to be insured through the program. At a minimum, the authority shall consider the following criteria in determining whether to approve a loan insurance application:

(A) The financial ability of the applicant to complete the insured project and repay the loan;

(B) The credit history of the provider;

(C) The past earnings and projected cash flow of the provider;

(D) The provider's past performance as a participant in any previous economic development program of this state or of any other state;

(E) The provider's experience with broadband service deployment in the state or any other state; and

(F) The nature and value of the collateral being offered for the loan insurance.

(4) The authority may not issue loan insurance to a provider if the provider, or a parent company of the provider, has previously defaulted on a debt or security instrument insured by the authority.

(5) The requirements of this subsection do not apply to applications received by the authority for broadband loan insurance or debt instrument insurance prior to the effective date of this section for such applications.

(d) Public notice by applicant. –

WV Legislature

(1) Upon the filing of an application for loan insurance under this section, the broadband provider shall cause to be published as a Class II legal advertisement in compliance with §59-3-1 *et seq*. of this code notice of the filing of the application and that the authority may approve the same unless within 10 business days after completion of publication a written objection is received by the authority from a person or persons alleging that the proposed broadband project does not satisfy the provisions of this section.

(2) The publication area for such notice is to be the county or counties in which any portion of the proposed broadband project is to be constructed. The notice shall be in such form as the authority shall direct and shall include a map of the area or areas to be served by the proposed broadband project. The applicant shall also cause to be mailed by first class, on or before the first day of publication of the notice, a copy of the notice to all known current providers of broadband service within the area proposed to be served.

(3) If an objection under this subsection is timely received by the authority, the authority shall advise the council within five business days. The council shall set the matter for hearing within 30 days of receipt of notice from the authority. The council may establish procedural rules governing such hearings by legislative rule, or the council may follow the Rules of Practice and Procedure of the Public Service Commission. The council shall issue a decision on whether the proposed project satisfies the requirements of this section or not within 30 days of completion of the hearing. Any party participating in the hearing may appeal the council's decision within 30 days of the issuance of the council's decision to the Circuit Court of Kanawha County.

(4) This subsection shall apply to all applicants except to those broadband providers that plan on providing a downstream data rate of at least one gigabyte per second to the end user or applicants that have been preliminarily determined to be eligible for a federally funded broadband expansion program.

(5) The requirements this subsection do not apply to applications received by the authority for broadband loan insurance or debt instrument insurance prior to the effective date of this section.

(e) Information to be posted by the authority. — The authority shall make the following information, pertaining to all loan insurance agreements, available on its website:

(1) The name of the insured provider;

(2) The location or locations of the project;

(3) The amount of the authority loan or financial assistance provided by the insurance fund;

(4) The purpose of the loan or financial assistance;

(5) The term, rate, and interest of the loan; and

WV Legislature

(6) The fixed assets that serve as security for the loan or insurance provided.

(f) Internal controls and accounting. — The authority shall keep itemized records of all transactions and agreements entered into in furtherance of the program. In administering the program, the authority shall adopt appropriate accounting practices and develop internal controls, including, but not limited to, strict compliance with the requirements of §5A-8-9 of this code.

(g) Quarterly reports and annual legislative audits. —

(1) On or before the 30th day of January, April, July, and October of each year, the authority shall prepare and submit to the Joint Committee on Government and Finance, the Governor, and the West Virginia Board of Treasury Investments a quarterly report which shall include, at a minimum:

(A) For each insured project, the provider name; the lending financial institution; the total value of the loan; the total amount of the loan that is insured pursuant to this section; the maturity date of the loan; the balance of loan moneys outstanding with the authority; and the status of the loan, including whether the loan is in delinquent or in default status.

(B) For loans not in good standing with the financial institution, the reason for the delinquent or default status of the loan; the provider's plans to address the delinquency or default; the availability of loan collateral that may be seized by the state; the expected outcome of the delinquency or default; and the estimated loss to any state funds that will result from the delinquency or default.

(2) During each year in which a loan insurance agreement entered into pursuant to this section remains in effect, the authority shall prepare and submit to the Joint Committee on Government and Finance, the Governor, and the board an annual report addressing the status of each project that is insured, pursuant to this section. The report shall, at a minimum, provide project-specific data addressing the broadband service levels being provided by the project, the geographic area to which different broadband service levels are being provided by the project, and the number of households actively receiving broadband service from the project.

(3) During each year in which a loan insurance agreement entered into pursuant to this section remains in effect, the Legislative Auditor shall audit the procedures, accounting practices, and internal controls of the authority for compliance with this section and §12-6C-11a of this code and report the findings of the audit to the Joint Committee on Government and Finance.

WV Legislature

§31-15-8b. Facilitation of the State Parks Enhancement Loan Insurance Program.

The authority shall cooperate with the Division of Natural Resources and the Board of Trustees of the West Virginia State Parks and Recreation Endowment Fund to facilitate the administration of the State Parks Enhancement Loan Insurance Program established by §20-5A-3 of this code. The executive director shall make the authority's staff available to provide guidance and assistance for the administration of the program. Any requirement or restriction on the authority's loan insurance programs and other operations established by this article shall not be applicable to the administration of the State Parks Enhancement Loan Insurance Program.

WV Legislature

§31-15-9. Bonds and notes issued pursuant to this article.

(a) The authority may issue its bonds or notes to fulfill the purposes set forth in this article.

(b) The authority may issue renewal notes to pay notes and, if it considers refunding expedient, may refund or refund in advance, bonds or notes, whether or not originally issued by the authority, by the issuance of new bonds or notes.

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be special obligations of the authority, payable solely from the property, revenues or other sources of or available to the authority pledged therefor.

(d) The bonds and the notes shall be authorized by the authority pursuant to section ten of this article, and shall be secured, be in such denominations, may bear interest at such rate or rates, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places and such time or times and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes shall be executed by manual or facsimile signature by the chairman of the board, and the official seal of the authority or a facsimile thereof shall be affixed to or printed on each bond and note and attested, manually or by facsimile signature, by the secretary of the board, and any coupons attached to any bond or note shall bear the manual or facsimile signature of the chairman of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he had remained in office until such delivery; and, in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

WV Legislature

§31-15-10. Approval by authority.

(a) To implement the powers and authority conferred upon it by this article, the board of the authority may adopt a resolution pursuant to which it shall:

(1) specify and describe the project;

(2) generally describe the public purpose to be served and the financing transaction to be accomplished under this article;

(3) specify the maximum principal amount of any bonds or notes to be issued by the authority, the maximum principal amount of the loan, and the amount of insurance, if any, to be provided by the authority; and

(4) impose any terms or conditions on the issuance of notes or bonds, the making of a loan or the provision of insurance that the authority deems appropriate.

(b) The board of the authority may, by resolution, or may delegate to the chairman or other designee the authority to, specify, prescribe, determine, provide for and approve such matters, details, forms, documents or procedures as the authority deems appropriate to the making of a loan, the authorization, sale, issuance, security, delivery, or payment of or for bonds or notes, or the authority's insurance of bonds, notes, loans or other instruments, including, without limitation, the rate or rates of interest and any security for the loan or insurance.

(c) The resolution adopted pursuant to this section is administrative in nature, is not subject to procedures required for legislative acts, and is not subject to referendum.

(d) In any suit, action, or proceeding involving the validity or enforceability of any bonds or notes issued, loan made, or insurance extended by the authority under this article or any security therefor, any finding by the authority as to the public purpose of any actions taken under this article and the appropriateness of those actions to serve the public purpose shall be conclusive.

(e) Any resolution authorizing the issuance of bonds or notes shall provide that such bonds or notes shall contain a recital that they are issued pursuant to this article, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

WV Legislature

§31-15-11. Trustee for bondholders; contents of trust agreement; pledge or assignment of revenues.

For bonds or notes issued pursuant to the provisions of this article, in the discretion of the authority, any bonds or notes, including refunding bonds or notes issued by the authority, may be secured by a trust agreement between the authority and a corporate trustee, which trustee may be any bank or trust company within or without the state. Any such trust agreement may contain such binding covenants with the holders of such bonds or notes as to any matter or provisions as are deemed necessary or advisable to the authority to enhance the marketability and security of such bonds or notes and may also contain such other provisions with respect thereto as the authority may authorize and approve. Any resolution adopted by the authority or any trust agreement may contain a pledge or assignment of revenues to be received in connection with the financing.

WV Legislature

§31-15-12. Use of funds by authority; restrictions thereon relating to projects.

All moneys, properties and assets acquired by the authority, whether as proceeds from the sale of bonds or notes or as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys shall at no time be commingled with other public funds. Such moneys, except as otherwise provided in any resolution authorizing the issuance of bonds or notes or in any trust agreement securing the same, or except when invested pursuant to this article, shall be kept in appropriate depositories and secured as provided and required by law. The resolution authorizing the issuance of such bonds or notes of any issue or the trust agreement securing such bonds or notes shall provide that any officer to whom, or any banking institution or trust company to which, such moneys are paid, shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to the conditions this article and such resolution or trust agreement provide.

WV Legislature

§31-15-12a. Horseshoe pitcher's hall of fame.

[Repealed.]

WV Legislature

§31-15-12b. Loans to support tourism.

(a) In order to preserve jobs and support tourism, the Economic Development Authority may make loans, consistent with this section.

(b) For purpose of this section an applicant is:

(1) A licensed entity that has filed an application for a loan under this section no later than July 1, 2016;

(2) A licensed entity operating in West Virginia; and

(3) A licensed entity that operates a resort comprised of at least seventy-five acres and employing a minimum of one hundred employees.

(c) The proceeds of the loans:

(1) May be used only to refinance the existing indebtedness of qualifying applicants; and

(2) May not exceed the outstanding indebtedness of the qualifying applicants as of January 1, 2016.

(d) The loans shall be:

(1) Made under terms and conditions established by the Economic Development Authority.

(2) Collateralized as determined by the Economic Development Authority.

(e) The total refinancing provided pursuant to this section by the Economic Development Authority shall not exceed 2.5 percent of the Economic Development Authority’s direct loan portfolio.

WV Legislature

§31-15-13. Refunding bonds or notes.

Any bonds or notes issued by the authority or any other public body or authority of the state pursuant to the provisions of this article or any other provision of this code and at any time outstanding may at any time and from time to time be refunded by the authority by the issuance of its refunding bonds or notes in such amount as it may deem necessary to refund the principal of the bonds or notes so to be refunded, together with any unpaid interest thereon; to provide additional funds for the purposes of the authority; and to pay any premiums and commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds or notes to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds or notes and the application of the proceeds thereof for the redemption of the bonds or notes to be refunded thereby or by exchange of the refunding bonds or notes for the bonds or notes to be refunded thereby. Such refunding bonds or notes shall be issued in conformance with the provisions of sections nine and ten of this article.

WV Legislature

§31-15-14. Obligations of authority undertaken pursuant to this article not debt of state, county, municipality or any political subdivision.

Bonds and notes, including refunding bonds and notes, issued under the authority of this article and any coupons in connection therewith, and any other obligations undertaken by the authority pursuant to this article, shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state, and the holders and owners thereof shall have no right to have taxes levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon, but such bonds, notes and other obligations shall be payable solely from revenues and funds pledged for their payment as authorized by this article unless the notes are issued in anticipation of the issuance of bonds or the notes are refunded by refunding bonds issued under the authority of this article, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by this article. All such bonds and notes, and all documents evidencing any other obligation, shall contain on the face thereof a statement to the effect that the bonds, notes or such other obligation as to both principal and interest, are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

WV Legislature

§31-15-15. Negotiability of bonds and notes issued pursuant to this article.

Whether or not the bonds or notes issued pursuant to this article are of such form or character as to be negotiable instruments under the Uniform Commercial Code, such bonds or notes are negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the bonds or notes for registration.

WV Legislature

§31-15-16. Bonds and notes issued pursuant to this article; legal investments.

The provisions of sections nine and ten, article six, chapter twelve of this code to the contrary notwithstanding, the bonds and notes issued pursuant to the provisions of this article are securities in which all public officers and bodies of this state, including the West Virginia state Board of Investments, all municipalities and other political subdivisions of this state, all insurance companies and associations and other persons carrying on an insurance business, including domestic for life and domestic not for life insurance companies, all banks, trust companies, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations and investment companies, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are authorized to invest in bonds or other obligations of the state may properly and legally invest funds, including capital, in their control or belonging to them.

WV Legislature

§31-15-16a. Bonds for capital improvements at institutions of higher education, state parks, the State Capitol complex, other state facilities or tourism sites; limitations; authority to issue revenue bonds; use of funds to pay for projects.

(a)(1) The economic development authority shall, in accordance with the provisions of this article, issue revenue bonds from time to time, to pay for a portion of the cost of constructing, equipping, improving or maintaining capital improvement projects under this section or to refund the bonds, at the discretion of the authority. The principal amount of the bonds issued under this section shall not exceed, in the aggregate, an amount that, in the opinion of the authority, is necessary to provide sufficient funds for achievement of the purposes of this section and is within the limits of moneys pledged for the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding bonds authorized by this section. Any revenue bonds issued on or after the effective date of this section which are secured by lottery proceeds shall mature at a time or times not exceeding thirty years from their respective dates. The principal of, and the interest and redemption premium, if any, on the bonds shall be payable solely from the Education, Arts, Sciences and Tourism Debt Service Fund established in section eleven-a, article six, chapter five and continued by this section.

(2) All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section. The authority may further provide in the trust agreement for priorities on the revenues paid into the Education, Arts, Sciences and Tourism Debt Service Fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section or section eleven-a, article six, chapter five of this code. The bonds issued pursuant to this section shall be separate from all other bonds which may be or have been issued from time to time under the provisions of section eleven-a, article six, chapter five of this code. The Education, Arts, Sciences and Tourism Debt Service Fund shall be pledged solely for the repayment of bonds issued pursuant to this section and section eleven-a, article six, chapter five of this code. On or prior to May 1 of each year, commencing May 1, 2010, the authority shall certify to the state lottery director the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the Education, Arts, Sciences and Tourism Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section.

(3) After the authority has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the Education, Arts, Sciences and Tourism Debt Service Fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

WV Legislature

(b) The authority shall expend sixty percent of the bond proceeds, net of issuance costs, reserve funds and refunding costs, for certified capital improvement projects at state institutions of higher education. The Higher Education Policy Commission shall submit a proposed list of capital improvement projects to the Governor on or before January 1, 2010. Thereafter, the Governor shall certify to the authority on or before February 1, 2010, a list of those capital improvement projects at state institutions of higher education that will receive funds from the proceeds of bonds issued pursuant to this section.

At any time prior to the issuance of bonds under this section, the Governor may certify to the authority a revised list of capital improvement projects at state institutions of higher education that will receive funds from the proceeds of bonds issued pursuant to this section. The Governor shall consult with the Higher Education Policy Commission prior to certifying a revised list of capital improvement projects to the authority.

(c) The authority shall expend the balance of the bond proceeds for certified projects at state parks, the capitol complex, other state facilities or tourism sites.

(1) A committee comprised of the secretary of the Department of Administration, the director of the Division of Natural Resources, the director of the West Virginia Development Office and a representative of the capitol building commission, other than the secretary of the Department of Administration, who shall be selected by the capitol building commission, shall submit a proposed list of capital improvement projects to the Governor on or before January 1, 2010. Thereafter, the Governor shall certify to the authority on or before February 1, 2010, a list of those capital improvement projects at state parks, the State Capitol complex, other state facilities or tourism sites that will receive funds from the proceeds of bonds issued pursuant to this section. (2) At any time prior to the issuance of bonds under this section, the Governor may certify to the authority a revised list of capital improvement projects at state parks, the State Capitol Complex, other state facilities or tourism sites that will receive funds from the proceeds of bonds issued pursuant to this section. The Governor shall consult with the committee established by this subsection prior to certifying a revised list of capital improvement projects to the authority.

WV Legislature

§31-15-16b. Lottery revenue bonds for Cacapon Resort State Park and Beech Fork State Park.

(a)(1) The economic development authority shall, in accordance with the provisions of this article, issue revenue bonds, in one or more series, from time to time, to pay for all or a portion of the cost of constructing, equipping, improving or maintaining capital improvement projects under this section or to refund the bonds, at the discretion of the authority. The principal amount of the bonds issued under this section shall not exceed, in the aggregate principal amount of $52.5 million. Any revenue bonds issued on or after the effective date of this section which are secured by lottery proceeds shall mature at a time or times not exceeding thirty years from their respective dates. The principal of, and the interest and redemption premium, if any, on the bonds shall be payable solely from the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund established in this section.

(2) There is hereby created in the State Treasury a special revenue fund named the "Cacapon and Beech Fork State Parks Lottery Revenue Service Fund" into which shall be deposited those amounts specified in section eighteen-e, article twenty-two, chapter twenty-nine of this code. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section. The authority may further provide in the trust agreement for priorities on the revenues paid into the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund shall be pledged solely for the repayment of bonds issued pursuant to this section. On or prior to May 1 of each year, commencing, upon issuance of the bonds, the authority shall certify to the state lottery director the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section.

(3) After the authority has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(b) The authority shall expend the bond proceeds, net of issuance costs, reserve funds and refunding costs, for certified capital improvement projects at Cacapon Resort State Park and Beech Fork State Park. The Division of Natural Resources shall submit a proposed list of capital improvement projects to the Governor on or before January 1, 2013. Thereafter, the

www.legislature

Governor shall certify to the authority on or before February 1, 2013, a list of those capital improvement projects at Cacapon Resort State Park and Beech Fork State Park that will receive funds from the proceeds of bonds issued pursuant to this section. At any time prior to the issuance of bonds under this section, the Governor may certify to the authority a revised list of capital improvement projects at Cacapon Resort State Park and Beech Fork State Park that will receive funds from the proceeds of bonds issued pursuant to this section. The Governor shall consult with the Division of Natural Resources prior to certifying a revised list of capital improvement projects to the authority.

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be special obligations of the authority, payable solely from the property, revenues or other sources of or available to the authority pledged therefor.

(d) The bonds and the notes shall be authorized by the authority pursuant to this section, and shall be secured, be in such denominations, may bear interest at such rate or rates, taxable or tax-exempt, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places and such time or times and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes shall be executed by manual or facsimile signature by the chairman of the board, and the official seal of the authority or a facsimile thereof shall be affixed to or printed on each bond and note and attested, manually or by facsimile signature, by the secretary of the board, and any coupons attached to any bond or note shall bear the manual or facsimile signature of the chairman of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until such delivery; and, in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

www.LegisQuire

§31-15-16c. Bonds for county capital improvements; limitations; authority to issue revenue bonds; use of funds to pay for projects.

(a) The West Virginia Economic Development Authority may, in accordance with the provisions of this article and article twenty seven, chapter seven of this code, issue special revenue bonds from time to time, to pay for a portion of the cost of constructing, equipping, improving or maintaining road projects under article twenty seven, chapter seven of this code or to refund the bonds, at the request of the county. The principal amount of the bonds issued under this section may not exceed, in the aggregate, an amount that, in the opinion of the Authority, is necessary to provide sufficient funds for achievement of the purposes of this section and article twenty seven, chapter seven of this code, and is within the limits of moneys pledged for the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding bonds authorized by this section and article twenty seven, chapter seven of the code. Any revenue bonds issued on or after the effective date of this section which are secured by county transportation sales and use tax shall mature at a time or times not exceeding thirty years from their respective dates except as otherwise provided in article twenty-seven, chapter seven of the code. The principal, interest and redemption premium, if any, on the bonds shall be payable solely from the county's subaccount in the County Road Improvement Account in the State Treasury established in article twenty-seven, chapter seven of this code.

(b) All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section. The Authority may further provide in the trust agreement for priorities on the revenues paid into the county's subaccount in the County Road Improvement Account as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section or article twenty seven, chapter seven of this code. The bonds issued pursuant to this section shall be separate from all other bonds which may be or have been issued from time to time under the provisions of this article or article twenty seven, chapter seven of this code. The debt service fund established for each bond issue shall be pledged solely for the repayment of bonds issued pursuant to this section and article twenty seven, chapter seven of this code. On or prior to May 1 of each year, commencing May 1, 2017, the Authority shall certify to each county commission the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the debt service fund have been pledged, or will be pledged, for repayment pursuant to this section.

(c) After the Authority has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the debt service fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and

WV Legislature

shall not again be issued. Any funds not used as provided in this subsection shall be returned to the county commission of the county for which the bonds were issued.

WV Legislature

§31-15-16d. Lottery revenue bonds for state park projects.

(a)(1) The Economic Development Authority shall, in accordance with the provisions of this article, issue revenue bonds, in one or more series, from time to time, to pay for all or a portion of the cost of constructing, equipping, improving, or maintaining capital improvement projects under this section or to refund the bonds issued for such purposes, at the discretion of the authority. The principal amount of the bonds issued under this section shall not exceed, in the aggregate principal amount, $80 million. Any revenue bonds issued on or after the effective date of this section which are secured by lottery proceeds shall mature at a time or times not exceeding 30 years from their issuance dates. The principal of, and the interest and redemption premium if any on, the bonds shall be payable solely from the State Parks Lottery Revenue Debt Service Fund established in this section.

(2) There is hereby created in the State Treasury a special revenue fund named the State Parks Lottery Revenue Debt Service Fund into which shall be deposited those amounts specified in §29-22-18e of this code. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest, and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section. The authority may further provide in the trust agreement for priorities on the revenues paid into the State Parks Lottery Revenue Debt Service Fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The State Parks Lottery Revenue Debt Service Fund shall be pledged solely for the repayment of bonds issued pursuant to this section. On or prior to May 1 of each year, commencing upon issuance of the bonds, the authority shall certify to the State Lottery director the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the State Parks Lottery Revenue Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section.

(3) After the authority has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the State Parks Lottery Revenue Debt Service Fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(b) The authority shall expend the bond proceeds, net of issuance costs, reserve funds, and refunding costs, for certified capital improvement projects at any state park. The Division of Natural Resources shall submit a proposed list of capital improvement projects to the Governor. Thereafter, the Governor shall certify to the authority at any time prior to the issuance of bonds under this section, a list of those capital improvement projects at state parks that will receive funds from the proceeds of bonds issued pursuant to this section. At

WV Legislature

any time prior to the issuance of bonds under this section, the Governor may certify to the authority a revised list of capital improvement projects at state parks that will receive funds from the proceeds of bonds issued pursuant to this section. The Governor shall consult with the Division of Natural Resources prior to certifying a revised list of capital improvement projects to the authority.

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be special obligations of the authority, payable solely from the property, revenues, or other sources of, or available to, the authority pledged therefor.

(d) The bonds and the notes shall be authorized by the authority pursuant to this section, and shall be secured, be in such denominations, may bear interest at such rate or rates, taxable or tax-exempt, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places and such time or times, and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes shall be executed by manual or facsimile signature by the chairman of the board, and the official seal of the authority or a facsimile thereof shall be affixed to or printed on each bond and note and attested, manually or by facsimile signature, by the secretary of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes, or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until such delivery; and, in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

WV Legislature

§31-15-16e. Lottery revenue bonds for the West Virginia Science and Cultural Center.

(a)(1) The Economic Development Authority shall, in accordance with the provisions of this article, issue revenue bonds, in one or more series, from time to time, to pay for all or a portion of the cost of acquiring, repairing, reconstructing, equipping, improving, or maintaining capital improvement projects under this section or to refund the bonds issued for such purposes, at the discretion of the authority. The principal amount of the bonds issued under this section shall not exceed, in the aggregate principal amount, $150 million. Any revenue bonds issued on or after the effective date of this section which are secured by lottery proceeds shall mature at a time or times not exceeding 20 years from their issuance dates. The principal of, and the interest and redemption premium if any on, the bonds shall be payable solely from the Cultural Center Revenue Debt Service Fund established in this section.

(2) There is hereby created in the State Treasury a special revenue fund named the Cultural Center Improvements Revenue Debt Service Fund into which shall be deposited those amounts specified in §29-22-18h of this code. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest, and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section. The authority may further provide in the trust agreement for priorities on the revenues paid into the Cultural Center Improvements Revenue Debt Service Fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The Cultural Center Improvements Revenue Debt Service Fund shall be pledged solely for the repayment of bonds issued pursuant to this section. On or prior to May 1 of each year, commencing upon issuance of the bonds, the authority shall certify to the State Lottery director the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the Cultural Center Improvements Revenue Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section: *Provided*, That for purposes of debt service to be payable during the fiscal year beginning July 1, 2026, such certification shall be provided by the authority to the State Lottery director on the date of issuance of the bonds.

(3) After the authority has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the Cultural Center Improvements Revenue Debt Service Fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(b) The authority shall expend the bond proceeds, net of issuance costs, reserve funds, and refunding costs, for certified capital improvements at the building presently known as the

WV Legislature

West Virginia Science and Cultural Center and any other site acquired necessary to preserve any history of the State of West Virginia. On or before September 1, 2026, the Secretary of Tourism shall submit a proposed list of capital improvements to the Governor. On or before September 30, 2026, the Governor shall certify to the authority at any time prior to the issuance of bonds under this section, a list of those capital improvements at the building presently known as the West Virginia Science and Cultural Center and any other site acquired necessary to preserve any history of the State of West Virginia that will receive funds from the proceeds of bonds issued pursuant to this section. At any time prior to the issuance of bonds under this section, the Governor may certify to the authority a revised list of capital improvements at the building presently known as the West Virginia Science and Cultural Center and any other site acquired necessary to preserve any history of the State of West Virginia that will receive funds from the proceeds of bonds issued pursuant to this section. The Governor shall consult with the Secretary of Tourism prior to certifying a revised list of capital improvements to the authority.

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be special obligations of the authority, payable solely from the property, revenues, or other sources of, or available to, the authority pledged therefor.

(d) The bonds and the notes shall be authorized by the authority pursuant to this section, and shall be secured, be in such denominations, may bear interest at such rate or rates, taxable or tax-exempt, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places and such time or times, and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes shall be executed by manual or facsimile signature by the chairman of the board, and the official seal of the authority or a facsimile thereof shall be affixed to or printed on each bond and note and attested, manually or by facsimile signature, by the secretary of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes, or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until such delivery; and, in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

WV Legislature

§31-15-17. Exemption from taxation.

The exercise of the powers granted to the authority by this article will be in all respects for the benefit of the people of the state for the improvement of their health, safety, convenience and welfare and is a public purpose. As the operation and maintenance of projects financed under this article will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon any property acquired or used by the authority or upon the income therefrom. All bonds and notes of the authority, and all interest and income thereon, shall be exempt from all taxation by this state and any county, municipality, political subdivision or agency thereof, except inheritance taxes.

WV Legislature

§31-15-18. Personal liability; persons executing bonds or notes issued pursuant to this article.

Neither the members or officers of the authority or of any authority, agency or office, nor any person executing the bonds or notes issued pursuant to the provisions of this article, shall be liable personally on such bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

WV Legislature

§31-15-19. Cumulative authority as to powers conferred; applicability of other statutes and charters; bonds and notes issued pursuant to this article.

The provisions of this article relating to the making of loans and to the issuance of bonds and notes shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither the powers nor any bonds or notes issued hereunder shall be affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided in this article, it being the purpose and intention of this article to create full, separate and complete additional powers. The various powers conferred herein may be exercised independently and notwithstanding that no bonds or notes are issued hereunder.

WV Legislature

§31-15-20. Authority of the Board of Investments.

[Repealed].

WV Legislature

§31-15-21. Loan and insurance application requirements.

Prior to the loaning of any funds to an industrial development agency or an enterprise for a project or the insuring of any bonds, notes, loans or other instruments pursuant to section eight of this article, the authority shall receive from such agency or enterprise an application in such form as adopted by the authority for either the loan or the insurance.

WV Legislature

§31-15-22. Documentary materials concerning trade secrets; commercial or financial information; or confidentiality.

Any documentary material or data made or received by the authority for the purpose of furnishing assistance to a business, to the extent that such material or data consists of trade secrets or commercial or financial information regarding the financial position or business operation of such business, shall not be considered public records and shall be exempt from disclosure pursuant to the provisions of chapter twenty-nine-b of this code. Any discussion or consideration of such trade secrets or commercial or financial information may be held by the authority in executive session closed to the public, notwithstanding the provisions of article nine-a, chapter six of this code: Provided, That the authority shall make publicly available the following information regarding executed loans or its provision of insurance: (1) the name of the debtor, (2) location(s) of the project, (3) amount of the authority loan or financial assistance provided by the insurance fund, (4) the purpose of the loan or financial assistance, (5) the term, rate and interest of the loan, and (6) the fixed assets which serve as security for the loan or insurance provided.

WV Legislature

§31-15-23. Economic development fund.

The economic development fund, to which shall be credited any appropriation made by the Legislature to the authority, any funds which the authority is authorized to receive under any provision of this code, other funds which the board directs to be deposited into the fund, and such other deposits as are provided for in this section, is hereby continued in the State Treasury as a special account.

The authority may requisition from the fund such amounts as are necessary to provide for the payment of the administrative expenses of this article. Notwithstanding any other provision of this article, whenever the authority determines it to be necessary to purchase at a foreclosure sale any project pursuant to subdivision (t), section six of this article, it may requisition from the fund such amount as is necessary to pay the purchase price thereof.

The authority shall requisition from the fund such amounts as are allocated and appropriated for loans to industrial development agencies or enterprises for projects. As loans to industrial development agencies or enterprises are repaid to the authority pursuant to the terms of mortgages and other agreements, the authority shall pay such amounts into the fund, consistent with the intent of this article that the fund shall operate as a revolving fund whereby all appropriations and payments made thereto may be applied and reapplied for the purposes of this article. Revenues deposited into the fund may be used to make payments of interest and principal and may be pledged as security for bonds, security interests or notes issued by the authority pursuant to this article.

Whenever the authority determines that the balance in the fund is in excess of the immediate requirements for loans, it may request that such excess be invested until needed for loan purposes, in which case such excess shall be invested in a manner consistent with the investment of other temporary state funds. Interest earned on any money invested pursuant to this section shall be credited to the fund.

If the authority determines that funds held in the fund are in excess of the amount needed to carry out the purposes of this article, it may take such action as is necessary to release such excess and transfer it to the General Fund of the State Treasury.

WV Legislature

§31-15-23a. Economic Development Project Fund.

(a) For the purposes of this section:

"Eligible broadband provider" has the meaning provided in §31-15-8a of this code.

"Federally funded broadband expansion program" has the meaning provided in §31-15-8a of this code.

"High-impact development project" means a project meeting the following criteria, according to a resolution adopted by the authority:

(A) The Governor has requested, in writing, that the project be approved for certain economic development financial assistance by the authority in an amount of $50 million or greater;

(B) The industrial development agency or enterprise undertaking the project will privately invest an amount of $50 million or greater in the project; and

(C) The project meets or exceeds the loan per job ratio criteria for high-impact development projects that may be established, in consultation with the Secretary of the Department of Commerce and the Executive Director of the Division of Economic Development, by the board of directors. In assessing a project and the economic development financial assistance package proposed by the Governor, the board of directors shall take regional and local economic factors into account when making a determination that the loan per job ratio criteria has been met.

(b) There is hereby created a special revenue fund in the State Treasury known as the Economic Development Project Fund. The fund shall consist of all moneys appropriated to the authority during the regular session of the Legislature, 2022, from available revenue surplus funds; transfers from the Industrial Development Loans Fund; gifts, grants, and contributions to the fund; any earnings or interest accruing to said fund; and any other moneys appropriated to said fund by the Legislature. The authority may invest and reinvest moneys in the fund with the West Virginia Investment Management Board or the Board of Treasury Investments.

(c) The authority may transfer funds in the Industrial Development Loans Fund to the Economic Development Project Fund created by this section and any loan repayments or other amounts that would otherwise have been paid into the Industrial Development Loans Fund may be paid into the Economic Development Project Fund created by this section.

(d) The authority may use moneys in the Economic Development Project Fund to offer incentives for business formation or expansion and provide assistance with site development or other concerns to industrial development agencies or enterprises according to the requirements of this article as set forth in this subsection: *Provided*, That annually up to $20 million may be exempted from the requirements of the high-impact development project

www.Legislature

definition and be allowable to be spent out of the Economic Development Project Fund.

(1) High-impact development projects. — In addition to any powers granted to the authority under any other section of this code, the authority may finance any high-impact development project under this section by offering incentives for business formation or expansion to industrial development agencies or enterprises in this state in the form of loans, grants, or other offers of financial assistance or aid upon such terms as the Governor may request and the authority shall deem appropriate: *Provided*, That the board of directors shall consider the overall availability of funds in the Economic Development Project Fund and the Industrial Development Loan Fund in making determinations related to economic development financial assistance packages for high-impact development projects. Funds which are paid back to the authority as principal pursuant to this subsection may be utilized and reloaned by the authority for the same purpose. Any interest accruing shall be retained and made available for high-impact projects as set forth in this subsection and shall not revert to the General Revenue Fund.

(2) Traditional loans. — The authority may finance any economic development project under this section by offering incentives for business formation or expansion to industrial development agencies or enterprises in this state in the form of loans, which shall be repaid to provide financing for subsequent borrowers: *Provided*, That moneys available to fund such traditional loans may not exceed $250 million dollars annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments received pursuant to this subsection. Funds which are paid back to the authority as principal pursuant to this subsection may be utilized and reloaned by the authority for the same purpose. Any interest accruing shall be retained and made available for traditional loans as set forth in this subsection and shall not revert to the General Revenue Fund.

(3) Business retention projects. — The authority may finance any economic development project under this section by offering incentives for business development and expansion to industrial development agencies or enterprises already existing and operating in the state of West Virginia in the form of loans, which shall be repaid to provide financing for subsequent borrowers: *Provided*, That moneys available to fund such business retention loans may not exceed $50 million dollars annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments received pursuant to this subsection. Funds which are paid back to the authority as principal pursuant to this subsection may be utilized and reloaned by the authority for the same purpose. Any interest accruing shall be retained and made available for business retention projects as set forth in this subsection and shall not revert to the General Revenue Fund.

(4) Federal broadband expansion projects. — The authority may use moneys in the fund to provide incentives for eligible broadband providers to participate in federally funded broadband expansion programs: *Provided*, That the moneys available for such incentives may not exceed $25 million annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments or investment earnings on said moneys.

(5) Broadband loan insurance. — The authority may transfer moneys from the fund to the Insurance Fund, created in §31-15-8 of this code, in amounts necessary to issue loan insurance to eligible broadband providers: *Provided*, That the moneys available for transfer pursuant to this subdivision may not exceed $125 million annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments or investment earnings on said moneys. With regard to any loan insurance issued using the moneys transferred pursuant to this subdivision, the authority shall follow the requirements of §31-15-8a of this code.

(e) The authority shall keep itemized records of all fund transactions and agreements entered into in furtherance of the Economic Development Project Fund expenditures. In administering the fund, the authority shall adopt appropriate accounting practices and internal controls, including, but not limited to, strict compliance with the requirements of §5A-8-9 of this code. Fund transactions shall be subject to an annual audit by an independent firm of certified public accountants.

(f) The authority shall prepare and submit to the Joint Committee on Government and Finance and the Governor an annual report addressing the status of each project with outstanding financing issued pursuant to this section. The report shall, at a minimum, provide project-specific data addressing:

(1) The outstanding amount of authority financing for each project;

(2) The total amount of private investment in each project;

(3) The number of jobs created by each project since the project's inception; and

(4) The number of jobs maintained by each project.

(g) Except for the records and audit required under subsection (e) of this section, and the annual reports required under subsection (f) of this section, any documentary material, data, or other writing made or received by the authority relating to high-impact development projects under this section, shall be exempt from §29B-1-1 *et seq*. of this code: *Provided*, That any agreement or resolution entered into or signed by the authority which obligates public funds for any high-impact development project shall be subject to inspection and copying pursuant to §29B-1-1 *et seq*. of this code as of the date the agreement or resolution is entered into, signed, or otherwise made public.

WV Legislature

§31-15-24. Transfer of state property to the authority.

The Governor is authorized to provide for the transfer to the authority of the use, possession and control of such real or personal property of the state as he may from time to time deem useful to the authority in the conduct of its activities as authorized by this article.

WV Legislature

§31-15-25. Validity of any pledge, mortgage, deed of trust or security instrument.

It is the intention hereof that any pledge, mortgage, deed of trust or security instrument made by or for the benefit of the authority shall be valid and binding between the parties from the time the pledge, mortgage, deed of trust or security instrument is made; and that the moneys or property so pledged, encumbered, mortgaged or entrusted shall immediately be subject to the lien of such pledge, mortgage, deed of trust or security instrument without any physical delivery thereof or further act.

WV Legislature

§31-15-26. Money of the authority.

All money accruing to the authority from whatever source derived, except legislative appropriations, shall be collected and received by the treasurer of the authority, who shall pay it into the State Treasury in the manner required by section two, article two, chapter twelve of this code, which shall be credited to the appropriate fund of the authority.

WV Legislature

§31-15-27. Conflict of interest; when contracts void.

No member, officer or employee of the authority shall either directly or indirectly be a party to or interested in any manner in any contract or agreement with the authority whereby liability or indebtedness against or to the authority is in any manner created. Any contract or agreement made in violation of the provisions of this section shall be void and no action thereon shall be maintained against the authority.

WV Legislature

§31-15-28. Agreement with federal agencies not to alter or limit powers of authority.

The state hereby pledges to and agrees with each federal agency that, if such agency constructs or loans or contributes any funds for any project, the state will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the due performance of any agreement between the authority and such federal agency and that the authority shall continue to have and exercise all powers granted for carrying out the purposes of this article for so long as necessary.

WV Legislature

§31-15-29. Audits.

As soon as possible after the close of each fiscal year, the authority shall make an annual report of its activities for the preceding fiscal year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the preceding fiscal year. The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of its projects.

WV Legislature

§31-15-30. Projects not to be considered public improvements.

No project, enterprise or business facility which conducts as its primary activity a manufacturing process or other nongovernmental or nonpublic activity may be deemed to be a "public improvement" within the meaning of the provisions of article five-a, chapter twenty-one of this code.

WV Legislature

§31-15-31. Foreign trade zones; authority approval.

Any public corporation located in the state is hereby authorized to apply for, develop, maintain and operate a foreign trade zone in the state pursuant to and in accordance with all applicable provisions of federal law: Provided, That any public corporation desiring to apply for or develop a foreign trade zone must first receive the approval of the authority.

WV Legislature

§31-15-32. Severability.

If any section, subsection, subdivision, subparagraph, sentence or clause of this article is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of this article, and, to this end, the provisions of this article are hereby declared to be severable.

WV Legislature

§31-15-33. Construction.

The provisions of this article are remedial and shall be liberally construed and applied so as to promote the purposes set out in section three of this article.

WV Legislature