WEST VIRGINIA CODE: §5-6-11A

§5-6-11a. Special power of commission to transfer or expend bond proceeds for capital improvements at institutions of higher education, state parks and the Capitol Complex and to construct and lease a center for arts and sciences of West Virginia; limitations; state building commission authorized to issue revenue bonds; fund created; use of funds to pay for development of education, arts, sciences, and tourism projects.

(a) The Legislature finds and declares that in order to attract new business and industry to this state, to retain existing business and industry providing the citizens of this state with economic security and to advance the business prosperity and economic welfare of this state it is necessary to promote adequate higher education, arts, sciences, and tourism facilities, including infrastructure, for: (1) State-of-the-art educational opportunities for all citizens of this state; (2) tourism enhancements at state parks, the Capitol Complex or other tourism sites throughout the state; (3) hands-on arts and sciences training for the youth of West Virginia; and (4) programs using the performing arts as an educational tool. Therefore, in order to promote education, arts, sciences, and tourism, the Legislature finds that public financial support should be provided for constructing, equipping, improving, and maintaining capital improvement projects which promote education, arts, sciences, and tourism in this state.

(b) The State Building Commission shall, by resolution, in accordance with the provisions of this article, issue revenue bonds of the commission, 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, $100 million. Any revenue bonds issued on or after January 1, 1996, which are secured by lottery proceeds shall mature at a time or times not exceeding 25 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 special fund provided in this section for the payment.

(c) There is hereby created in the State Treasury a special revenue fund named the Education, Arts, Sciences, and Tourism Debt Service Fund into which shall be deposited on and after July 1, 1996, the amounts specified in §29-22-18 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 commission may further provide in the resolution and 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. 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. The Education, Arts,

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Sciences, and Tourism 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 May 1, 1996, the commission 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.

After the commission 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.

(d) The commission shall expend $25 million of the bond proceeds for certified capital improvement projects at state institutions of higher education. For the purposes of certifying the projects which will receive funds from the bond proceeds, a committee shall be established and comprised of the Governor, or his or her designee, the secretary of the Department of Administration, the Secretary of the Department of Education and the Arts, the Chancellor of the University of West Virginia Board of Trustees, and the Chancellor of the Board of Directors of the State College System. The committee shall meet as often as necessary and take recommendations from any source whatever regarding the capital improvement projects at state institutions of higher education. The committee shall meet within 45 days of the effective date of this section. Prior to making its recommendations, the committee shall conduct at least two public hearings, one of which must be held outside of Kanawha County. Notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at least 14 days prior to the date of the public hearing. On or before September 15, 1996, the committee shall certify to the commission a list of those capital improvement projects at state institutions of higher education which will receive funds from the proceeds of bonds issued pursuant to this section. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

(e) The commission shall expend up to $26 million from the proceeds of the bonds authorized by this section to pay a portion of the costs of projects certified under this subsection for development, maintenance, or promotion of arts and sciences or constructing and equipping a center for arts and sciences of West Virginia located on a site acquired for that purpose. Any proceeds expended to pay a portion of project costs to construct and equip a center for arts and sciences of West Virginia shall not exceed 40 percent of the total cost of the project and permanent endowments for operation and maintenance, and bond proceeds shall not be expended until 60 percent of the total cost has been committed from sources other than bond proceeds. For the purposes of certifying the projects which will receive funds from the

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bond proceeds under this subsection, a committee shall be established and composed of the Governor, or his or her designee, 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. The Capitol Building Commission shall select its representative within 30 days of the effective date of this section. The committee shall meet as often as necessary and take recommendations from any source whatever regarding which projects should be certified. The committee shall meet within 45 days of the effective date of this section. Prior to making its determination, the committee shall conduct one public hearing on the projects to be certified under this subsection. Notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in each congressional district at least 14 days prior to the date of the public hearing. The committee shall make its determination as to whether bond proceeds will be expended for the purposes set forth in this subsection and the amount to be expended for each project, on or before June 15, 1996. Thereafter, the decision may not be altered or amended other than by legislative enactment. The commission is authorized to acquire by purchase or lease real property to be used as the site for a center for arts and sciences of West Virginia; and notwithstanding the provisions of §5-6-7 of this code, enter into a long-term lease agreement with a nonprofit corporation organized under the laws of this state for operation and maintenance of the center. The nonprofit corporation shall, as consideration for any long-term lease agreement, complete the construction and equipping of the center and demonstrate to the satisfaction of the commission its financial ability to operate and maintain the center during the term of the lease agreement. The nonprofit corporation shall have at least six members on its board of directors which are appointed by the Governor with the advice and consent of the Senate. Of the six appointed members, three shall be selected from each congressional district: *Provided*, That none of the appointed members shall be a resident of Kanawha County. The members appointed by the Governor with the advice and consent of the Senate shall serve on the board for three-year staggered terms. Of the members first appointed by the Governor, one from each congressional district will serve a three-year term, one from each congressional district will serve a two-year term, and one from each congressional district shall serve a one-year term.

(f) The commission shall expend the balance of the bond proceeds for certified projects at state parks, the Capitol Complex, or other tourism sites. The committee established in subsection (e) of this section shall certify to the commission on or before September 15, 1996, a list of those capital improvement projects at state parks, the capitol complex, or other tourism sites which will receive funds from the proceeds of bonds issued pursuant to this section. The committee shall meet as often as necessary and take recommendations from any source whatever regarding the capital improvement projects at state parks, the capitol complex, or other tourism sites in this state. The committee shall meet within 45 days of the effective date of this section. Prior to making its recommendations, the committee shall conduct at least two public hearings on the projects to be certified under this subsection, one of which must be held outside of Kanawha County. Notice of the time, place,

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date, and purpose of the hearing shall be published in at least one newspaper in each congressional district at least 14 days prior to the date of the public hearing. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

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