WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

HOUSE BILL No. 4663

(By Delegates Liss Browning, Compton, Doyle, Mezzatista, Bordu and Mueller)

Passed March 9, 1996

In Effect from Passage
AN ACT to amend and reenact section thirteen, article five, chapter eighteen of the code West Virginia, one thousand nine hundred thirty-one, as amended; to amend article nine-a of said chapter by adding thereto a new section, designated section fourteen; to amend and reenact sections three, six and fifteen, article nine-d of said chapter; to further amend said article by adding thereto a new section, designated section four-a, all relating to the authority of county boards of education generally; allowance for county transfers; powers of the school building authority; savings from issuance of refunding bonds; school building capital improvements fund in the state treasury; school construction fund in state treasury; school building debt service fund in the state treasury; school improvement fund in the state treasury; collections to be paid into special funds; authority to pledge such collections as security for refunding revenue bonds; authority to finance projects on a cash basis; and distribution of money by the school building authority.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that article nine-a of said chapter be amended by adding thereto a new section, designated section fourteen; that sections three, six and fifteen, article nine-d
of said chapter be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section four-a, all to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.


1. The boards, subject to the provisions of this chapter and the rules of the state board, has authority:

   (1) To control and manage all of the schools and school interests for all school activities and upon all school property, whether owned or leased by the county, including the authority to require that records be kept of all receipts and disbursements of all funds collected or received by any principal, teacher, student or other person in connection with the schools and school interests, any programs, activities or other endeavors of any nature operated or carried on by or in the name of the school, or any organization or body directly connected with the school, to audit the records and to conserve the funds, which shall be considered quasi-public moneys, including securing surety bonds by expenditure of board moneys;

   (2) To establish schools, from preschool through high school, inclusive of vocational schools; and to establish schools and programs, or both, for post high school instruction, subject to approval of the state board of education;

   (3) To close any school which is unnecessary and to assign the pupils of the school to other schools: Provided, That the closing shall be officially acted upon and teachers and service personnel involved notified on or before the first Monday in April, in the same manner as provided in section four of this article, except in an emergency, subject to the approval of the state superintendent, or under subdivision (5) of this section;

   (4) To consolidate schools;

   (5) To close any elementary school whose average daily attendance falls below twenty pupils for two months in succession and send the pupils to other schools in the
district or to schools in adjoining districts. If the teachers in the closed school are not transferred or reassigned to other schools, they shall receive one month's salary;

(6) (a) To provide at public expense adequate means of transportation, including transportation across county lines, for all children of school age who live more than two miles distance from school by the nearest available road; to provide at public expense and according to such rules as the board may establish, adequate means of transportation for school children participating in board-approved curricular and extracurricular activities; and to provide in addition thereto at public expense, by rules and within the available revenues, transportation for those within two miles distance; to provide in addition thereto, at no cost to the board and according to rules established by the board, transportation for participants in projects operated, financed, sponsored or approved by the commission on aging: Provided, That all costs and expenses incident in any way to transportation for projects connected with the commission on aging shall be borne by the commission, or the local or county chapter of the commission: Provided, however, That in all cases the school buses owned by the board of education shall be driven or operated only by drivers regularly employed by the board of education: Provided further, That the county board may provide, under rules established by the state board, for the certification of professional employees as drivers of board-owned vehicles with a seating capacity of less than ten passengers used for the transportation of pupils for school-sponsored activities other than transporting students between school and home: And provided further, That the use of the vehicles shall be limited to one for each school-sponsored activity: And provided further, That buses shall be used for extracurricular activities as provided in this section only when the insurance provided for by this section is in effect;

(b) To enter into agreements with one another to provide, on a cooperative basis, adequate means of transportation across county lines for children of school age subject to the conditions and restrictions of subdivisions (6) and (8) of this section;
(7) (a) To lease school buses operated only by drivers regularly employed by the board to public and private nonprofit organizations or private corporations to trans-
port school-age children to and from camps or education-
al activities in accordance with rules established by the board. All costs and expenses incurred by or incidental to the transportation of the children shall be borne by the lessee;

(b) To contract with any college or university or officially recognized campus organizations to provide trans-
portation for college or university students, faculty or staff to and from the college or university: Provided, That only college and/or university students, faculty and staff are being transported. The contract shall include consider-
ation and compensation for bus operators, repairs and other costs of service, insurance and any rules concerning student behavior;

(8) To provide at public expense for insurance against the negligence of the drivers of school buses, trucks or other vehicles operated by the board; and if the transpor-
tation of pupils is contracted, then the contract for the transportation shall provide that the contractor shall carry insurance against negligence in an amount specified by the board;

(9) To provide solely from county funds for all regu-
lar full-time employees of the board all or any part of the cost of a group plan or plans of insurance coverage not provided or available under the West Virginia public em-
ployees insurance act;

(10) To employ teacher aides, to provide in-service training for teacher aides, the training to be in accordance with rules of the state board and, in the case of service personnel assuming duties as teacher aides in exceptional children programs, to provide a four-clock-hour program of training prior to the assignment which shall, in accor-
dance with rules of the state board, consist of training in areas specifically related to the education of exceptional children;
(11) To establish and conduct a self-supporting dormitory for the accommodation of the pupils attending a high school or participating in a post high school program and of persons employed to teach in the high school or post high school program;

(12) To employ legal counsel;

(13) To provide appropriate uniforms for school service personnel;

(14) To provide at public expense and under rules as established by any county board of education for the payment of traveling expenses incurred by any person invited to appear to be interviewed concerning possible employment by the county board of education;

(15) To allow or disallow their designated employees to use publicly provided carriage to travel from their residences to their workplace and return: Provided, That the usage is subject to the supervision of the board and is directly connected with and required by the nature and in the performance of the employee's duties and responsibilities;

(16) To provide, at public expense, adequate public liability insurance, including professional liability insurance for board employees;

(17) To enter into agreements with one another to provide, on a cooperative basis, improvements to the instructional needs of each county. The cooperative agreements may be used to employ specialists in a field of academic study or support functions or services, for the academic study. The agreements are subject to approval by the state board of education; and

(18) To provide information about vocational or higher education opportunities to students with handicapping conditions. The board shall provide in writing to the students and their parents or guardians information relating to programs of vocational education and to programs available at state funded institutions of higher education. The information may include sources of available funding, including grants, mentorships and loans for students
who wish to attend classes at institutions of higher edu-

cation.

"Quasi-public funds" as used in this section means any
money received by any principal, teacher, student or other
person for the benefit of the school system as a result of
curricular or noncurricular activities.

The board of each county shall expend under rules it
establishes for each child an amount not to exceed the
proportion of all school funds of the district that each
child would be entitled to receive if all the funds were
distributed equally among all the children of school age in
the district upon a per capita basis.

(19) To enter into agreements with one another, with
the approval of the state board, for the transfer and receipt
of any and all funds determined to be fair when students
are permitted or required to attend school in a county
other than the county of their residence.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.


In order to encourage county boards to utilize fully
their facilities and to provide county boards with fiscal
flexibility, county boards that agree to transfer students to
another county pursuant to an agreement approved by the
state board after the effective date of this article, pursuant
to subsection nineteen, section thirteen, article five, chapter
eight of this code, shall forward in the year in which the
transfers occur to the receiving county the amount agreed
upon in the agreement, not to exceed the per pupil alloca-
tion in the state aid formula. Subject to appropriations by
the Legislature, funds equal to the agreed upon amount
will be provided to the county which transfers students as
an allowance for facility efficiency in the year in which
the transfers occur. Subject to appropriations by the Leg-
islature, for the first year after the transfers occur, the
county board shall receive one-half the amount provided
for in the agreement. Subject to appropriations by the
Legislature, for the second year after the transfers occur,
the county board shall receive one-fourth the amount
provided for in the agreement. If professional or service
personnel obtain full-time employment pursuant to the terms of section eight-i, article four, chapter eighteen-a of this code, then the state board shall deduct an appropriate amount from the funds to be received pursuant to this section.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.


The school building authority has the power:

(1) To sue and be sued, plead and be impleaded;

(2) To have a seal and alter the same at pleasure;

(3) To contract to acquire and to acquire, in the name of the authority by purchase, lease-purchase not to exceed a term of twenty-five years, or otherwise, real property or rights or easements necessary or convenient for its corporate purposes and to exercise the power of eminent domain to accomplish those purposes;

(4) To acquire, hold and dispose of real and personal property for its corporate purposes;

(5) To make bylaws for the management and rule of its affairs;

(6) To appoint, contract with and employ attorneys, bond counsel, accountants, construction and financial experts, underwriters, financial advisers, trustees, managers, officers and such other employees and agents as may be necessary in the judgment of the authority and to fix their compensation: Provided, That contracts entered into by the school building authority in connection with the issuance of bonds under this article to provide professional and technical services, including, without limitation, accounting, actuarial, underwriting, consulting, trustee, bond counsel, legal services and contracts relating to the purchase or sale of bonds are subject to the provisions of article three, chapter five-a of this code: Provided, however, That notwithstanding any other provisions of this code, any authority of the attorney general of this state relating to the review of contracts and other documents to effectuate the issuance of bonds under this article shall be exclud-
sively limited to the form of the contract and document:

Provided further, That the attorney general of this state shall complete all reviews of contracts and documents relating to the issuance of bonds under this article within ten calendar days of receipt of the contract and document for review;

(7) To make contracts and to execute all instruments necessary or convenient to effectuate the intent of and to exercise the powers granted to it by this article;

(8) To renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the authority that its interests will be best served;

(9) To acquire by purchase, eminent domain or otherwise all real property or interests in the property necessary or convenient to accomplish the purposes of this article;

(10) To require proper maintenance and insurance of any project authorized under this section;

(11) To charge rent for the use of all or any part of a project or buildings at any time financed, constructed, acquired or improved, in whole or in part, with the revenues of the authority;

(12) To assist any county board of education that chooses to acquire land, buildings and capital improvements to existing school buildings and property for use as public school facilities, by lease from a private or public lessor for a term not to exceed twenty-five years with an option to purchase pursuant to an investment contract with the lessor on such terms and conditions as may be determined to be in the best interests of the authority, the state board of education and the county board of education, consistent with the purposes of this article, by transferring funds to the state board of education as provided in subsection (d), section fifteen of this article for the use of the county board of education;

(13) To accept and expend any gift, grant, contribution, bequest or endowment of money to, or for the benefit of, the authority, from the state of West Virginia or any other source for any or all of the purposes specified in this
article or for any one or more of such purposes as may be
specified in connection with the gift, grant, contribution,
bequest or endowment;

(14) To enter on any lands and premises for the pur-
pose of making surveys, soundings and examinations;

(15) To contract for architectural, engineering or
other professional services considered necessary or eco-
nomical by the authority to provide consultative or other
services to the authority or to any regional educational
service agency or county board requesting professional
services offered by the authority, to evaluate any facilities
plan or any project encompassed in the plan, to inspect
existing facilities or any project that has received or may
receive funding from the authority, or to perform any
other service considered by the authority to be necessary
or economical. Assistance to the region or district may
include the development of preapproved systems, plans,
designs, models or documents; advice or oversight on any
plan or project; or any other service that may be efficient-
ly provided to regional educational service agencies or
county boards by the authority;

(16) To provide funds on an emergency basis to re-
pair or replace property damaged by fire, flood, wind,
storm, earthquake or other natural occurrence, the funds
to be made available in accordance with guidelines of the
school building authority;

(17) To transfer moneys to custodial accounts main-
tained by the school building authority with a state finan-
cial institution from the school construction fund and the
school improvement fund created in the state treasury
pursuant to the provisions of section six of this article, as
necessary to the performance of any contracts executed
by the school building authority in accordance with the
provisions of this article;

(18) To enter into agreements with county boards and
persons, firms or corporations to facilitate the develop-
ment of county board projects and county board facilities
plans. The county board participating in an agreement
shall pay at least twenty-five percent of the cost of the
agreement. Nothing in this section shall be construed to supersede, limit or impair the authority of county boards to develop and prepare their projects or plans; and

(19) To do all things necessary or convenient to carry out the powers given in this article.

§18-9D-4a. Savings from issuance of refunding bonds.

Any aggregate savings resulting from the issuance of refunding bonds pursuant to section four of this article shall be retained by the school building authority. Any savings shall be utilized solely for the construction and maintenance of schools and may not be used to fund administrative costs of the authority.

§18-9D-6. School building capital improvements fund in state treasury; school construction fund in state treasury; school building debt service fund in state treasury; school improvement fund in state treasury; collections to be paid into special funds; authority to pledge such collections as security for refunding revenue bonds; authority to finance projects on a cash basis.

(a) There is continued in the state treasury a school building capital improvements fund to be expended by the authority as provided in this article. The school building capital improvements fund shall be an interest bearing account with interest credited to and deposited in the school building capital improvements fund and expended in accordance with the provisions of this article.

The school building authority has authority to pledge all or such part of the revenues paid into the school building capital improvements fund as may be needed to meet the requirements of any revenue bond issue or issues authorized by this article prior to the twentieth day of July, one thousand nine hundred ninety-three, or revenue bonds issued to refund revenue bonds issued prior to that date, including the payment of principal of, interest and redemption premium, if any, on the revenue bonds and the establishing and maintaining of a reserve fund or funds for the payment of the principal of, interest and redemption premium, if any, on the revenue bond issue or
issues when other moneys pledged may be insufficient for
the payment of the principal, interest and redemption
premium, including such additional protective pledge of
revenues as the authority in its discretion has provided by
resolution authorizing the issuance of the bonds or in any
trust agreement made in connection with the bond issue.
The authority may further provide in the resolution and
in the trust agreement for such priorities on the revenues
paid into the school building capital improvements 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 article.

Any balance remaining in the school building capital
improvements fund after the authority has issued bonds
authorized by this article, and after the requirements of all
funds including reserve funds established in connection
with the bonds issued prior to the twentieth day of July,
one thousand nine hundred ninety-three, pursuant to this
article have been satisfied, may be used for the redemption
of any of the outstanding bonds issued under this article
which by their terms are then redeemable, or for the pur-
chase of the bonds at the market price, but not exceeding
the price, if any, at which the bonds are in the same year
redeemable, and all bonds redeemed or purchased shall
immediately be canceled and shall not again be issued.

The school building authority, in its discretion, may
use the moneys in the school building capital improve-
ments fund to finance the cost of projects on a cash basis.
Any pledge of moneys in the fund for revenue bonds
issued prior to the twentieth day of July, one thousand
nine hundred ninety-three, is a prior and superior charge
on the fund over the use of any of the moneys in the
fund to pay for the cost of any project on a cash basis:
Provided, That any expenditures from the fund, other
than for the retirement of revenue bonds, may only be
made by the authority in accordance with the provisions
of this article.

(b) There is hereby continued in the state treasury a
special revenue fund named the school building debt
service fund into which shall be deposited on and after the
first day of April, one thousand nine hundred ninety-four, the amounts specified in section eighteen, 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 article: Provided, That deposited moneys may not be pledged to the repayment of any revenue bonds issued prior to the first day of January, one thousand nine hundred ninety-four, or with respect to revenue bonds issued for the purpose of refunding revenue bonds issued prior to the first day of January, one thousand nine hundred ninety-four. The authority may further provide in the resolution and in the trust agreement for priorities on the revenues paid into the school building 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 article. On or prior to the first day of May of each year, commencing the first day of May, one thousand nine hundred ninety-four, 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 issued on or after the first day of January, one thousand nine hundred ninety-four, and for which moneys deposited in the school building debt service fund have been pledged, or will be pledged, for repayment pursuant to this section.

After the authority has issued bonds authorized by this article, 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 article, any balance remaining in the school building debt service fund may be used for the redemption of any of the outstanding bonds issued under this article 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 the bonds are redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(c) There is hereby continued in the state treasury a special revenue fund named the school construction fund
into which shall be deposited on and after the first day of July, one thousand nine hundred ninety-four, the amounts specified in section thirty, article fifteen, chapter eleven of this code, together with any moneys appropriated thereto by the Legislature. Expenditures from the school construction fund shall be for the purposes set forth in this article, including lease-purchase payments under agreements made pursuant to subsection (e), section fifteen of this article and section nine, article five of this chapter and are authorized from collections in accordance with the provisions of article three, chapter twelve of this code and from other revenues annually appropriated by the Legislature from lottery revenues as authorized by section eighteen, article twenty-two, chapter twenty-nine of this code, pursuant to the provisions set forth in article two, chapter five-a of this code. Amounts collected which are found from time to time to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. The school construction fund shall be an interest bearing account, with the interest credited to and deposited in the school construction fund and expended in accordance with the provisions of this article. Deposits to and expenditures from the school construction fund are subject to the provisions of subsection (i), section fifteen of this article.

(d) There is hereby continued in the state treasury a special revenue fund named the school major improvement fund into which shall be deposited on and after the first day of July, one thousand nine hundred ninety-four, the amounts specified in section thirty, article fifteen, chapter eleven of this code, together with any moneys appropriated to the fund by the Legislature. Expenditures from the school major improvement fund shall be for the purposes set forth in this article and are authorized from collections in accordance with the provisions of article three, chapter twelve of this code and from other revenues annually appropriated by the Legislature from lottery revenues as authorized by section eighteen, article twenty-two, chapter twenty-nine of this code, pursuant to the provisions set forth in article two, chapter five-a of this
Amounts collected which are found from time to time to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. The school major improvement fund shall be an interest bearing account, with interest being credited to and deposited in the school major improvement fund and expended in accordance with the provisions of this article.

(e) The Legislature hereby finds and declares that the supreme court of appeals of West Virginia has held that the issuance of additional revenue bonds authorized under the school building authority act, as enacted in this article prior to the twentieth day of July, one thousand nine hundred ninety-three, constituted an indebtedness of the state in violation of section 4, article X of the constitution of West Virginia, but that revenue bonds issued under this article prior to the twentieth day of July, one thousand nine hundred ninety-three, are not invalid. The Legislature further finds and declares that the financial capacity of a county to construct, lease and improve school facilities depends upon the county's bonding capacity (local property wealth), voter willingness to pass bond issues and the county's ability to reallocate other available county funds instead of criteria related to educational needs or upon the ability of the school building authority created in this article to issue bonds that comply with the holding of the West Virginia supreme court of appeals or otherwise assist counties with the financing of facilities construction and improvement. The Legislature hereby further finds and declares that this section, as well as section eighteen, article twenty-two, chapter twenty-nine of this code, have been reenacted during the first extraordinary session of the West Virginia Legislature in the year one thousand nine hundred ninety-four, in an attempt to comply with the holding of the supreme court of appeals of West Virginia.

The Legislature hereby further finds and declares that it intends, through the reenactment of this section and section eighteen, article twenty-two, chapter twenty-nine of this code, to dedicate a source of state revenues to special revenue funds for the purposes of paying the debt service
on bonds and refunding bonds issued subsequent to the first day of January, one thousand nine hundred ninety-four, the proceeds of which will be utilized for the construction and improvement of school building facilities. The Legislature hereby further finds and declares that it intends, through the reenactment of this section and section thirty, article fifteen, chapter eleven of this code and section eighteen, article twenty-two, chapter twenty-nine of this code, to appropriate revenues to two special revenue funds for the purposes of construction and improvement of school building facilities. Furthermore, the Legislature intends to encourage county boards of education to maintain existing levels of county funding for construction, improvement and maintenance of school building facilities and to generate additional county funds for such purposes through bonds and special levies whenever possible. The Legislature further encourages the school building authority, the state board of education and county boards of education to propose uniform project specifications for comparable projects whenever possible to meet county needs at the lowest possible cost.

The Legislature hereby further finds and declares that it intends, through the reenactment of this section and section eighteen, article twenty-two, chapter twenty-nine of this code, to comply with the provisions of sections 4 and 6, article X; and section 1, article XII of the constitution of West Virginia.

§18-9D-15. Legislative intent; distribution of money.

(a) It is the intent of the Legislature to empower the school building authority to facilitate and provide state funds for the construction and major improvement of school facilities so as to meet the educational needs of the people of this state in an efficient and economical manner. The authority shall make funding determinations in accordance with the provisions of this article and shall assess existing school facilities and each facility's school major improvement plan in relation to the needs of the individual student, the general school population, the communities served by the facilities and facility needs statewide.
(b) An amount that is no more than three percent of the sum of moneys that are determined by the authority to be available for distribution during the then current fiscal year from: (1) Moneys paid into the school building capital improvements fund pursuant to section ten, article nine-a of this chapter; (2) the issuance of revenue bonds for which moneys in the school building debt service fund are pledged as security; (3) moneys paid into the school construction fund pursuant to section six of this article; and (4) any other moneys received by the authority, except moneys paid into the school major improvement fund pursuant to section six of this article, may be allocated and may be expended by the authority for projects that service the educational community statewide or, upon application by the state board, for educational programs that are under the jurisdiction of the state board. In addition, upon application by the state board or the administrative council of an area vocational educational center established pursuant to article two-b of this chapter, the authority may allocate and expend under this section moneys for school major improvement projects proposed by the state board or an administrative council for school facilities under the direct supervision of the state board or an administrative council, respectively: Provided, That the authority may not expend any moneys for a school major improvement project proposed by the state board or the administrative council of an area vocational educational center unless the state board or an administrative council has submitted a ten-year school major improvement plan, to be updated annually, pursuant to section sixteen of this article: Provided, however, That the authority shall, before allocating any moneys to the state board or the administrative council of an area vocational educational center for a school improvement project, consider all other funding sources available for the project.

(c) An amount that is no more than two percent of the moneys that are determined by the authority to be available for distribution during the current fiscal year from: (1) Moneys paid into the school building capital improvements fund pursuant to section ten, article nine-a of this chapter; (2) the issuance of revenue bonds for which mon-
eys in the school building debt service fund are pledged as security; (3) moneys paid into the school construction fund pursuant to section six of this article; and (4) any other moneys received by the authority, except moneys deposited into the school major improvement fund, shall be set aside by the authority as an emergency fund to be distributed in accordance with the guidelines adopted by the school building authority.

(d) The remaining moneys determined by the authority to be available for distribution during the then current fiscal year from: (1) Moneys paid into the school building capital improvements fund pursuant to section ten, article nine-a of this chapter; (2) the issuance of revenue bonds for which moneys in the school building debt service fund are pledged as security; (3) moneys paid into the school construction fund pursuant to section six of this article; and (4) any other moneys received by the authority, except moneys deposited into the school major improvement fund, shall be allocated and expended on the basis of need and efficient use of resources, the basis to be determined by the authority in accordance with the provisions of section sixteen of this article.

(e) If a county board of education proposes to finance a project that is approved pursuant to section sixteen of this article through a lease with an option to purchase leased premises upon the expiration of the total lease period pursuant to an investment contract, the authority may allocate no moneys to the county board in connection with the project: Provided, That the authority may transfer moneys to the state board of education, which, with the authority, shall lend the amount transferred to the county board to be used only for a one-time payment due at the beginning of the lease term, made for the purpose of reducing annual lease payments under the investment contract, subject to the following conditions:

(1) The loan shall be secured in the manner required by the authority, in consultation with the state board, and shall be repaid in a period and bear interest at a rate as determined by the state board and the authority and shall have such terms and conditions as are required by the
authority, all of which shall be set forth in a loan agreement among the authority, the state board of education and the county board;

(2) The loan agreement shall provide for the state board and the authority to defer the payment of principal and interest upon any loan made to the county board during the term of the investment contract, and annual renewals of the investment contract, among the state board, the authority, such county board and a lessor: Provided, That in the event a county board of education, which has received a loan from the state building authority for a one-time payment at the beginning of the lease term, does not renew the subject lease annually until performance of the investment contract in its entirety is completed: Provided, however, That if a county board renews the lease annually through the performance of the investment contract in its entirety, the county board shall exercise its option to purchase the leased premises: Provided further, That the failure of the county board to make a scheduled payment pursuant to the investment contract shall constitute an event of default under the loan agreement: And provided further, That upon a default by a county board, the principal of the loan, together with all unpaid interest accrued to the date of the default, shall at the option of the authority, in consultation with the state board, become due and payable immediately or subject to renegotiation among the state board, the authority and the county board: And provided further, That if the loan becomes due and payable immediately, the authority, in consultation with the state board, shall use all means available under the loan agreement and law to collect the outstanding principal balance of the loan, together with all unpaid interest accrued to the date of payment of the outstanding principal balance; and

(3) The loan agreement shall provide for the state board and the authority to forgive all principal and interest of the loan upon the county board purchasing the leased premises pursuant to the investment contract and performance of the investment contract in its entirety.
To encourage county boards to proceed promptly with facilities planning and to prepare for the expenditure of any state moneys derived from the sources described in this subsection, any county board failing to expend money within three years of the allocation to the county board shall forfeit the allocation and thereafter shall be ineligible for further allocations pursuant to this subsection until the county board is ready to expend funds in accordance with an approved facilities plan: Provided, That the authority may authorize an extension beyond the three-year forfeiture period not to exceed an additional two years. Any amount forfeited shall be added to the total funds available in the school construction fund of the authority for future allocation and distribution.

(f) The remaining moneys that are determined by the authority to be available for distribution during the then current fiscal year from moneys paid into the school major improvement fund pursuant to section six of this article shall be allocated and distributed on the basis of need and efficient use of resources, the basis to be determined by the authority in accordance with the provisions of section sixteen of this article: Provided, That the moneys may not be distributed to any county board that does not have an approved school major improvement plan or to any county board that is not prepared to commence expenditures of the funds during the fiscal year in which the moneys are distributed: Provided, however, That any moneys allocated to a county board and not distributed to that county board shall be deposited in an account to the credit of that county board, the principal amount to remain to the credit of and available to the county board for a period of two years. Any moneys which are unexpended after a two-year period shall be redistributed on the basis of need from the school major improvement fund in that fiscal year.

(g) No local matching funds may be required under the provisions of this section. However, the responsibilities of the county boards of education to maintain school facilities shall not be negated by the provisions of this article, and therefore, to be eligible to receive an allocation of school major improvement funds from the authority, a
county board must have expended in the previous fiscal year an amount of county moneys equal to or exceeding the lowest average amount of money included in the county board's maintenance budget over any three of the previous five years and must have budgeted an amount equal to or greater than the average in the current fiscal year: Provided, That the state board of education shall promulgate rules relating to county boards' maintenance budgets, including items which shall be included in the budgets.

(h) Any county board may use moneys provided by the authority under this article in conjunction with local funds derived from bonding, special levy or other sources. Distribution to a county board, or to the state board or the administrative council of an area vocational educational center pursuant to subsection (b) of this section, may be in a lump sum or in accordance with a schedule of payments adopted by the authority pursuant to such guidelines as it shall adopt.

(i) Funds in the school construction fund shall first be transferred and expended as follows:

Any funds deposited in the school construction fund shall be expended first in accordance with an appropriation by the Legislature. To the extent that funds are available in the school construction fund in excess of that amount appropriated in any fiscal year, the excess funds may be expended in accordance with the provisions of this article. Any projects which the authority identified and announced for funding on or before the first day of August, one thousand nine hundred ninety-five, or identified and announced for funding on or before the thirty-first day of December, one thousand nine hundred ninety-five, shall be funded by the authority in an amount which is not less than the amount specified when the project was identified and announced.

(j) It is the intent of the Legislature to encourage county boards to explore and consider arrangements with other counties that may facilitate the highest and best use of all available funds, which may result in improved transportation arrangements for students, or which otherwise
may create efficiencies for county boards and the students. In order to address the intent of the Legislature contained in this subsection, the authority shall grant such preference to those projects which involve multi-county arrangements as the authority shall determine reasonable and proper.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schoonover  
Chairman Senate Committee

Randy Leaman  
Chairman House Committee

Originating in the House.

Takes effect from passage.

Russell Miller  
Clerk of the Senate

Gregory M. Bay  
Clerk of the House of Delegates

Carl Byrd  
President of the Senate

Richard Chambers  
Speaker of the House of Delegates

The within is approved this the 15th  
day of April, 1996.

James C. Giant新京报  
Governor