WEST VIRGINIA LEGISLATURE
Regular Session, 2003

ENROLLED
Committee Substitute for
SENATE BILL NO. 80

(By Senator Tomblin, Mr. President)

PASSED March 8, 2003

In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 180

(Senator Tomblin, Mr. President, original sponsor)

[Passed March 8, 2003; in effect from passage.]

AN ACT to amend and reenact sections three, six, fifteen, sixteen and nineteen, article nine-d, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section six, article ten-h of said chapter, all relating to public education; authorizing school building authority to require flood insurance for certain facilities; authorizing authority to accept gift, grant, contribution, bequest or endowment for authority or projects, including equipment; authorizing authority to encourage work-based learning opportunities for students on funded projects and outlining conditions; authorizing use of certain authority funds to finance construction and improvements on a cash basis when certain conditions are met; allowing authority to reserve certain funds for priority use
for certain multiuse vocational-technical educational facilities; authorizing use of reserved funds for equipment and updates; specifying bodies that may propose projects; authorizing reserve of certain project funds for certain period to complete budget; requiring approved comprehensive educational facility plan as prior condition for distribution of funds; prohibiting distribution of funds to county not prepared to commence expenditure during fiscal year; requiring up-to-date enrollment projections in facility plans and updates; authorizing inclusion of facilities for community and technical college education in plans to construct comprehensive vocational facilities at existing high schools; providing that counties served by a multicounty vocational-technical facility are not required to include the construction of a comprehensive vocational facility in the plan for construction of a new high school; requiring board to include multicounty vocational-technical facility director and board in planning programs; prohibiting programs at the vocational facility from replacing the programs at the multicounty vocational-technical facility without the consent of the center board; authorizes a county served by a comprehensive vocational center to eliminate any vocational offering from a new comprehensive high school under certain circumstances; and including introductory vocational-technical courses in middle school grades as part of effective schools for vocational-technical education.

Be it enacted by the Legislature of West Virginia:

That sections three, six, fifteen, sixteen and nineteen, article nine-d, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section six, article ten-h of said chapter be amended and reenacted, all to read as follows:

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.


1 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 exclusively 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, including flood insurance for any facility within the one hundred year flood plain at which authority funds are expended;

(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 and equipment to, or for the benefit of, the authority or any project under this article, 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 purpose
of making surveys, soundings and examinations;

(15) To contract for architectural, engineering or other
professional services considered necessary or economical
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 pre-approved systems, plans, designs,
models or documents; advice or oversight on any plan or
project; or any other service that may be efficiently
provided to regional educational service agencies or
county boards by the authority;

(16) To provide funds on an emergency basis to repair 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
financial 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;

(19) To encourage any project or part thereof to provide opportunities for students to participate in supervised, unpaid work-based learning experiences related to the student’s program of study approved by the county board. The work-based learning experience must be conducted in accordance with a formal training plan approved by the instructor, the employer and the student and which sets forth at a minimum the specific skills to be learned, the required documentation of work-based learning experiences, the conditions of the placement, including duration and safety provisions, and provisions for supervision and liability insurance coverage as applicable. Projects involving the new construction and renovation of vocational-technical and adult education facilities should provide opportunities for students to participate in supervised work-based learning experiences, to the extent practical, which meet the requirements of this subdivision. Nothing in this subdivision may be construed to affect registered youth apprenticeship programs or the provisions governing those programs; and

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

§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 may pledge all or any part of the revenues paid into the school building capital improvements fund that are 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 any additional protective pledge of revenues that 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. Additionally, the authority may provide in the resolution and in the trust agreement for priorities on the revenues paid into the school building capital improvements fund that are 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 purchase 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 improvements 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 continued in the state treasury a special revenue fund named the school building debt service fund into which shall be deposited 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. Additionally, the authority may provide in the resolution and in the trust agreement for priorities on the revenues paid into the school building debt service fund that are 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, 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: Provided, That after the authority has issued bonds authorized by this article and after the requirements of debt service and all associated funds have been satisfied for the fiscal year, including coverage and reserve funds established in connection with the bonds issued pursuant to this article, any remaining balance in the school building debt service fund may be transferred to the school construction fund created in subsection (c) of this section and used by the school building authority in its discretion to finance the cost of school construction or improvement projects on a cash basis.

(c) There is continued in the state treasury a special revenue fund named the school construction fund into which shall be deposited 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 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 continued in the state treasury a special revenue fund named the school major improvement fund into which shall be deposited 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 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 pur-
poses 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 finds and declares that the supreme
court of appeals of West Virginia has held that the issu-
ance 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 four, article X of the constitu-
tion 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 Legisla-
ture further finds and declares that the financial capacity
of a county to construct, lease and improve school facili-
ties 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 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 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 used for the
construction and improvement of school building facilities.
The Legislature 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 to maintain existing
levels of county funding for construction, improvement
and maintenance of school building facilities and to
generate additional county funds for those purposes
through bonds and special levies whenever possible. The
Legislature further encourages the school building author-
ity, the state board 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 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 four
and six, article X of the constitution of West Virginia; and
section one, article XII of said constitution.

§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 and to administer all federal funds provided 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 subsection 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 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 set aside by the authority as an emergency fund to be distributed in accordance with the guidelines adopted by the authority.

(d) An amount that is no more than five 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 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, may be reserved by the authority for multiuse vocational-technical education facilities that may include post-secondary programs as a first priority use. The authority may allocate and expend under this subsection moneys for any purposes authorized in this article on multiuse vocational-technical education facilities and for equipment and equipment updates at the facilities. If the projects approved under this subsection do not require the full amount of moneys reserved, moneys above the amount required may be allocated and expended in accordance...
with other provisions of this article. A county board, the
state board, an administrative council or the joint admin-
istrative board of a vocational-technical education facility
which includes post-secondary programs may propose
projects for facilities or equipment, or both, which are
under the direct supervision of the respective body:
Provided, That the authority shall, before allocating any
moneys for a project under this subsection, consider all
other funding sources available for the project.

(e) 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.

(f) 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 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, the county board and a lessor: Provided, That in the event a county board which has received a loan from the 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, the county board is in default and 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: 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 constitutes 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 perform-
ance of the investment contract in its entirety.

(g) 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 is 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 forfei-
ture period not to exceed an additional two years. Any
amount forfeited shall be added to the total funds avail-
able in the school construction fund of the authority for
future allocation and distribution. Funds may not be
distributed to any county board that does not have a
comprehensive educational facility plan approved by the
state board and the school building authority or to any
county board that is not prepared to commence expendi-
ture of the funds during the fiscal year in which the
moneys are distributed.

(h) 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.

(i) 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 are not negated by the provisions of this article. 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.

(j) 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 guidelines adopted by the authority.

(k) 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.

(l) 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 preference to those projects which involve multicounty arrangements as the authority shall determine reasonable and proper.

(m) County boards shall submit all designs for construction of new school buildings to the school building authority for review and approval prior to preparation of final bid documents: Provided, That a vendor who has been debarred pursuant to the provisions of sections thirty-three-a through thirty-three-f, inclusive, article three, chapter five-a of this code, may not bid on or be awarded a contract under this section.
The authority may elect to disburse funds for approved construction projects over a period of more than one year subject to the following:

(1) The authority may not approve the funding of a school construction project for more than three years;

(2) The authority may not approve the use of more than fifty percent of the revenue available for distribution in any given fiscal year for projects that are to be funded over more than one year; and

(3) In order to encourage local participation in funding school construction projects, the authority may set aside limited funding, not to exceed five hundred thousand dollars, in reserve for one additional year to provide a county the opportunity to complete financial planning for a project prior to the allocation of construction funds. Any such funding shall be on a reserve basis and converted to a part of the construction grant only after all project budget funds have been secured and all county commitments have been fulfilled. Failure of the county to solidify the project budget and meet its obligations to the state within eighteen months of the date the funding is set aside by the authority will result in expiration of the reserve and the funds shall be reallocated by the authority in the succeeding funding cycle.

§18-9D-16. Facilities and major improvement plans generally; need-based eligibility.

(a) To facilitate the goals as stated in section fifteen of this article and to assure the prudent and resourceful expenditure of state funds for construction projects as described in subsection (d) of said section, each county board of education shall submit a countywide comprehensive educational facilities plan that addresses the facilities and major improvement needs of the county and includes up-to-date projections of student enrollments pursuant to such guidelines as shall be adopted by the authority in
accordance with this section and in accordance with each county's facilities plan approved by the state board of education. Any project receiving funding must be in furtherance of the approved countywide facilities plan.

(1) To assure efficiency and productivity in the project approval process, the countywide facilities plan may be submitted only after a preliminary plan, a plan outline or a proposal for a plan has been submitted to the authority. Selected members of the authority, which selection shall include citizen members, shall then meet promptly with those persons designated by the county board to attend the facilities plan consultation. The purpose of the consulta-
tion is to assure understanding of the general goals of the school building authority and the specific goals encom-
passed in the following criteria and to discuss ways the plan may be structured to meet those goals.

(2) The guidelines for the development of a facilities plan must state the manner, timeline and process for submis-
sion of any plan to the authority; project specifications considered appropriate by the authority; and those matters which are considered by the authority to be important reflections of how the project will further the overall goals of the authority.

(b) To facilitate the goals as stated in section fifteen of this article and to assure the prudent and resourceful expenditure of state funds derived from the school major improvement fund, each county board of education shall submit to the authority a ten-year countywide school major improvement plan that addresses the major improvement needs of each school within the county. If the state board of education or the administrative council of an area vocational educational center chooses to seek funding for a major improvement project from the authority pursuant to subsection (f) of said section, the state board or the administrative council shall submit a ten-year school major improvement plan that addresses the major improvement needs of the school or area vocational

Each educational center for which funding is sought. Each ten-year school major improvement plan must be prepared pursuant to guidelines adopted by the authority in accordance with this section and must be updated annually to reflect projects completed, current enrollment projections and new or continuing needs. Any school major improvement project funded by the authority must be in furtherance of the approved school major improvement plan.

The guidelines for the development and annual updates of a ten-year school major improvement plan must state the manner, timeline and process for submission of any plan, including a repair and replacement schedule for school facilities, to the authority; the maintenance specifications considered appropriate by the authority; and those matters which are considered by the authority to be important reflections of how the major improvement project or projects will further the overall goals of the authority.

(c) The guidelines regarding submission of the facilities plans and school major improvement plans must include requirements for public hearings, comments or other means of providing broad-based input within a reasonable time period as the authority may consider appropriate. The submission of each plan must be accompanied by a synopsis of all comments received and a formal comment by the county board, the state board or the administrative council of an area vocational educational center submitting the plan.

The guidelines regarding project specifications may include such matters as energy efficiency, preferred siting, construction materials, maintenance plan or any other matter related to how the project is to proceed. If a county board of education proposes to finance a construction project through a lease with an option to purchase pursuant to an investment contract as described in subsection (e), section fifteen of this article, the specifications for the project must include the term of the lease, the amount of
each lease payment, including the payment due upon
exercise of the option to purchase, and the terms and
conditions of the proposed investment contract.

(d) The guidelines pertaining to quality educational
facilities must require that a facilities plan address how
the current facilities do not meet and how the proposed
plan and any project thereunder does meet the following
goals:

(1) Student health and safety;

(2) Economies of scale, including compatibility with
similar schools that have achieved the most economical
organization, facility utilization and pupil-teacher ratios;

(3) Reasonable travel time and practical means of
addressing other demographic considerations;

(4) Multicounty and regional planning to achieve the
most effective and efficient instructional delivery system;

(5) Curriculum improvement and diversification, includ-
ing computerization and technology and advanced senior
courses in science, mathematics, language arts and social
studies;

(6) Innovations in education;

(7) Adequate space for projected student enrollments;

and

(8) To the extent constitutionally permissible, each
facilities plan must address the history of efforts taken by
the county board to propose or adopt local school bond
issues or special levies.

If the project is to benefit more than one county in the
region, the facilities plan must state the manner in which
the cost and funding of the project will be apportioned
among the counties.
(e) The guidelines pertaining to quality educational facilities must require that a school major improvement plan address how the proposed plan and any project thereunder meet the following goals:

(1) Student health and safety, including, but not limited to, critical health and safety needs; and

(2) Economies of scale, including regularly scheduled preventive maintenance: Provided, That each county board’s school maintenance plan must address regularly scheduled maintenance for all facilities within the county.

(f) Each county board’s facilities plan and school major improvement plan must prioritize all the construction projects or major improvement projects, respectively, within the county. A school major improvement plan submitted by the state board or the administrative council of an area vocational educational center must prioritize all the school improvement projects contained in the plan. The priority list is one of the criteria to be considered by the authority in determining how available funds must be expended. In prioritizing the projects, the county board, the state board or the administrative council submitting a plan shall make determinations in accordance with the objective criteria formulated by the school building authority.

(g) Each facilities plan and school major improvement plan must include the objective means to be used in evaluating implementation of the overall plan and each project included therein. The evaluation must measure each project’s furtherance of each applicable goal stated in this section and any guidelines adopted hereunder, as well as the overall success of any project as it relates to the facilities plan or school major improvement plan and the overall goals of the authority.

(h) The state department of education shall conduct on-site inspections, at least annually, of all facilities which
have been funded wholly or in part by moneys from the authority or state board to ensure compliance with the county board’s facilities plan and school major improvement plan as related to the facilities; to preserve the physical integrity of the facilities to the extent possible; and to otherwise extend the useful life of the facilities:

Provided, That the state board shall submit reports regarding its on-site inspections of facilities to the authority within thirty days of completion of the on-site inspections: Provided, however, That the state board shall promulgate rules regarding the on-site inspections and matters relating thereto, in consultation with the authority, as soon as practical and shall submit proposed rules for legislative review no later than the first day of December, one thousand nine hundred ninety-four.

(i) The authority may adopt guidelines for requiring that a county board modify, update, supplement or otherwise submit changes or additions to an approved facilities plan or for requiring that a county board, the state board or the administrative council of an area vocational educational center modify, update, supplement or otherwise submit changes or additions to an approved county board facilities plan or school major improvement plan. The authority shall provide reasonable notification and sufficient time for the change or addition as delineated in guidelines developed by the authority.

(j) Based on its on-site inspection or notification by the authority to the state board that the changes or additions to a county’s board facilities plan or school major improvement plan required by the authority have not been implemented within the time period prescribed by the authority, the state board shall restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the Legislature for those purposes set forth in section nine, article nine-a of this chapter.

(a) The Legislature finds the following:

1. The decline in student enrollment over the last twenty years has necessitated consolidation of schools in many counties;

2. It is projected that the decline in student enrollment during the period two thousand two through two thousand twelve may be as great as eighteen percent and will continue the necessity to consolidate schools;

3. The new consolidated school buildings now being built across the state provide an opportunity for communities to have comprehensive high schools that include space for vocational-technical courses, community college courses and other workforce-related courses for the students and the public at large;

4. Requiring students to be bused to remote vocational centers has sometimes deterred student participation in vocational courses and has sometimes been considered a stigma upon those students attending vocational courses;

5. Offering vocational, community college and workforce programs in close proximity to each other compliment the high school and the programs; and

6. The change in the season for girls' basketball to coincide with boys' basketball has placed significant pressures on the availability of gymnasium space and often has caused practices to be scheduled late in the evenings and on weekends, interfering with time needed for studying and rest.

(b) When planning the construction of a high school which has been approved by the authority and which meets the required authority efficiencies, the authority shall provide funding for comprehensive vocational facilities to be located, when feasible, on the same site as the high school and may, in cooperation with the higher education policy commission established in section one,
article one-b, chapter eighteen-b of this code, provide funding for facilities for community and technical college education. When building in conjunction with the higher education policy commission, an educational specification must be developed for the proposed new facility by the appropriate institutional governing board as defined in section two, article one of said chapter. The county board is the fiscal agent for construction. All planning, design, bidding and construction must be completed with authority guidelines and under the supervision of the authority.

(c) When planning the construction of a high school which has been approved by the authority and meets the required authority efficiencies, the authority shall provide funding sufficient for the construction of at least one auxiliary gymnasium. The authority may establish standards for the auxiliary gymnasium.

(d) Upon application of a county board to construct comprehensive vocational facilities at an existing high school, the authority will provide technical assistance to the county in developing a plan for construction of the comprehensive vocational facility. The facility may, in cooperation with the higher education policy commission in accordance with the provisions of subsection (b) of this section, include facilities for community and technical college education. Upon development of the plan, the authority shall consider funding based on the following criteria:

(1) The distance of any existing vocational facilities from the high schools it serves;

(2) The time required to travel to and from the vocational facility to the high schools it serves;

(3) The ability of the county board to provide local funds for the construction of new comprehensive vocational facilities;
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69 (4) The size of the existing high schools and the demand for vocational technical courses;

70 (5) The age and physical condition of the existing vocational facilities; and

71 (6) Such other criteria as the authority shall consider appropriate.

75 (e) When planning the construction of a high school in a county which is served by a multicounty vocational technical facility, the county may not be required to include the construction of a comprehensive vocational facility in the plan. If the county board elects to construct a comprehensive vocational facility pursuant to this section, the board shall include the multicounty center director and board in planning programs to be offered at the vocational facility which complement the programs offered at the multicounty center and may as part of the plan include facilities for community and technical college education at the multicounty center. The programs offered at the vocational facility may not replace the programs offered at the multicounty vocational technical center without the consent of the center board.

90 (f) Notwithstanding any other provisions of this section to the contrary, the county board in which there is an existing comprehensive vocational center may eliminate any vocational offering from a new comprehensive high school if the county board:

95 (1) Completes a comprehensive vocational curriculum study, as required by the authority, including an evaluation of both the programmatic and physical facilities of the existing center and coordinates the county's vocational curriculum; and

100 (2) Submits the plan to the authority for review and obtains the authority's approval.
ARTICLE 10H. ALBERT YANNI PROGRAMS OF EXCELLENCE IN VOCATIONAL-TECHNICAL EDUCATION.

§18-10H-6. Effective schools program in vocational-technical education.

1 The state board of education shall establish and operate
2 an effective schools program for vocational-technical
3 education, including introductory vocational-technical
4 courses in middle school grades as appropriate. The
5 purpose of the program is to provide vocational-technical
6 education personnel with resources and staff development
7 for school program improvement based on application of
8 the effective schools research, including components such
9 as instructional leadership, school climate, high student
10 expectations, emphasis on academic and occupational
11 achievement and community and parental involvement.
12 The program shall be coordinated by the bureau of voca-
13 tional, technical and adult education with the advisement
14 from a committee composed of two vocational administra-
15 tors, two vocational teachers, one vocational guidance
16 counselor, one educator of vocational teachers, one county
17 school superintendent, one comprehensive high school
18 principal, one academic teacher, two business/industry
19 representatives, one labor representative and one voca-
20 tional education program completer.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd Day of April, 2003.

Governor
PRESENTED TO THE
GOVERNOR

Date 3/27/03
Time 0110 AM