SBE 67

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR
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FOR
Senate Bill No. 67

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
BY REQUEST OF THE EXECUTIVE)

[Passed March 10, 2007; to take effect ninety days from passage.]
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AN ACT to amend and reenact §18-9D-2 and §18-9D-15 the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-9D-20; and to amend said code by adding thereto a new article,
designated §18-9F-1, §18-9F-2, §18-9F-3, §18-9F-4, §18-9F-5, §18-9F-6, §18-9F-7 and §18-9F-8, all relating to the School Building Authority and school access safety generally; declaring legislative findings and intent; defining certain terms; authorizing the School Building Authority to facilitate and provide funding for enhancing the safe ingress to and egress from public schools; providing for county boards to develop and submit to the authority school access safety plans; requiring authority to establish certain guidelines and procedures regarding the plans, plan modifications and evaluation of projects developed pursuant to the plans; creating a special account in the State Treasury; authorizing carry-forward of account funds; providing process, requirements and eligibility for allocating and disbursing moneys to counties; establishing school access safety requirements for certain new school buildings; authorizing legislative rules; requiring refiling of authority rules; requiring certain rules of authority to be refiled as legislative rules; and requiring report on implementation of school access safety requirements.

Be it enacted by the Legislature of West Virginia:

That §18-9D-2 and §18-9D-15 of the Code of West Virginia, 1931, as amended, be amended, be amended and reenacted, that said code be amended by adding thereto a new section, designated §18-9D-20; that said code be amended by adding thereto a new article, designated §18-9F-1, §18-9F-2, §18-9F-3, §18-9F-4, §18-9F-5, §18-9F-6, §18-9F-7 and §18-9F-8, all to read as follows:

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.


1 For the purposes of this article, unless a different
meaning clearly appears from the context:

(1) "Authority" means the School Building Authority of West Virginia;

(2) "Bonds" means bonds issued by the authority pursuant to this article;

(3) "Construction project" means a project in the furtherance of a facilities plan with a cost greater than five hundred thousand dollars for the new construction, expansion or major renovation of facilities, buildings and structures for school purposes, including:

(A) The acquisition of land for current or future use in connection with the construction project;

(B) New or substantial upgrading of existing equipment, machinery and furnishings;

(C) Installation of utilities and other similar items related to making the construction project operational.

(D) Construction project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course of business improvements; other items which are customarily considered to result in a current or ordinary course of business operating charge or a major improvement project;

(4) "Cost of project" means the cost of construction, expansion, renovation, repair and safety upgrading of facilities, buildings and structures for school purposes;
the cost of land, equipment, machinery, furnishings, installation of utilities and other similar items related to making the project operational and the cost of financing, interest during construction, professional service fees and all other charges or expenses necessary, appurtenant or incidental to the foregoing, including the cost of administration of this article;

(5) “Facilities plan” means the ten-year countywide comprehensive educational facilities plan established by a county board in accordance with guidelines adopted by the authority to meet the goals and objectives of this article that:

(A) Addresses the existing school facilities and facility needs of the county to provide a thorough and efficient education in accordance with the provisions of this code and policies of the state board;

(B) Best serves the needs of individual students, the general school population and the communities served by the facilities;

(C) Includes the school major improvement plan;

(D) Includes the county board’s school access safety plan required by section three, article nine-f of this chapter;

(E) Is updated annually to reflect projects completed, current enrollment projections and new or continuing needs; and

(F) Is approved by the state board and the authority prior to the distribution of state funds pursuant to this
article to any county board or other entity applying for funds;

(6) "Project" means a construction project or a major improvement project;

(7) "Region" means the area encompassed within and serviced by a Regional Educational Service Agency established pursuant to section twenty-six, article two of this chapter;

(8) "Revenue" or "revenues" means moneys:

(A) Deposited in the School Building Capital Improvements Fund pursuant to section ten, article nine-a of this chapter;

(B) Deposited in the School Construction Fund pursuant to section thirty, article fifteen, chapter eleven of this code and section eighteen, article twenty-two, chapter twenty-nine of this code;

(C) Deposited in the School Building Debt Service Fund pursuant to section eighteen, article twenty-two, chapter twenty-nine of this code;

(D) Deposited in the School Major Improvement Fund pursuant to section thirty, article fifteen, chapter eleven of this code;

(E) Received, directly or indirectly, from any source for use in any project completed pursuant to this article; and

(F) Received by the authority for the purposes of this
(9) "School major improvement plan" means a ten-year school maintenance plan that:

(A) Is prepared by a county board in accordance with the guidelines established by the authority and incorporated in its Countywide Comprehensive Educational Facilities Plan, or is prepared by the state board or the administrative council of an area vocational educational center in accordance with the guidelines if the entities seek funding from the authority for a major improvement project;

(B) Addresses the regularly scheduled maintenance for all school facilities of the county or under the jurisdiction of the entity seeking funding;

(C) Includes a projected repair and replacement schedule for all school facilities of the county or of entity seeking funding;

(D) Addresses the major improvement needs of each school within the county or under the jurisdiction of the entity seeking funding; and

(E) Is required prior to the distribution of state funds for a major improvement project pursuant to this article to the county board, state board or administrative council; and

(10) "School major improvement project" means a project with a cost greater than fifty thousand dollars and less than five hundred thousand dollars for the renovation, expansion, repair and safety upgrading of
existing school facilities, buildings and structures, including the substantial repair or upgrading of equipment, machinery, building systems, utilities and other similar items related to the renovation, repair or upgrading in the furtherance of a school major improvement plan. A major improvement project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course of business improvements; or other items which are customarily considered to result in a current or ordinary course of business operating charge.

§18-9D-15. Legislative intent; allocation of money among categories of projects; lease purchase options; limitation on time period for expenditure of project allocation; county maintenance budget requirements; project disbursements over period of years; preference for multicounty arrangements; submission of project designs; set-aside to encourage local participation.

(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 not 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 and moneys deposited into the School Access Safety Fund pursuant to section five, article nine-f of this chapter, may be allocated and may be expended by the authority for projects authorized in accordance with the provisions of section sixteen of this article 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 authorized in accordance with the provisions of
section sixteen of this article 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. Furthermore, upon application by a county board, the authority may allocate and expend under this subsection moneys for school major improvement projects for vocational programs at comprehensive high schools, vocational schools cooperating with community and technical college programs, or both. Each county board is encouraged to cooperate with community and technical colleges in the use of existing or development of new vocational technical facilities. All projects eligible for funds from this subsection shall be submitted directly to the authority which shall be solely responsible for the project's evaluation, subject to the following:

(A) 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 facilities plan; and

(B) 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 not 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 and moneys deposited into the School Access Safety Fund pursuant to section five, article nine-f of this chapter, 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 not 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 and moneys deposited into the School Access Safety Fund pursuant to section five, article nine-f of this chapter, may be reserved by the authority for multiuse vocational-technical education facilities projects 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 projects, including equipment and equipment updates at the facilities, authorized in accordance with the provisions of section sixteen of this article. 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 administrative 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 and moneys deposited into the School Access
Safety Fund pursuant to section five, article nine-f of
this chapter, shall be allocated and expended on the
basis of need and efficient use of resources for projects
funded in accordance with the provisions of section
sixteen of this article.

(f) If a county board proposes to finance a project that
is authorized in accordance with 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 not allocate moneys to the county board
in connection with the project: Provided, That the
authority may transfer moneys to the state board 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 any terms and conditions that 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, subject to the following:

(A) 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 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;

(B) 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;

(C) 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;
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

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

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 section, any county board or other entity to whom moneys are allocated by the authority that fails to expend the money within three years of the allocation shall forfeit the allocation and thereafter is ineligible for further allocations pursuant to this section until it 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. Funds may not be distributed for any project under this article unless the responsible entity has a facilities plan approved by the state board and the School Building Authority and is prepared to commence expenditure 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 for projects authorized in accordance with the provisions of section sixteen of this article, subject to the following:

(1) The moneys may not be distributed for any project under this section unless the responsible entity has a facilities plan approved by the state board and the authority and is to commence expenditures of the funds during the fiscal year in which the moneys are distributed;

(2) Any moneys allocated to a project and not distributed for that project shall be deposited in an account to the credit of the project, the principal amount to remain to the credit of and available to the project for a period of two years; and

(3) 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
Local matching funds may not be required under the provisions of this section. However, this article does not negate the responsibilities of the county boards to maintain school facilities. 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 shall promulgate rules relating to county boards' maintenance budgets, including items which shall be included in the budgets.

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:

(1) Any funds deposited in the School Construction Fund shall be expended first in accordance with an appropriation by the Legislature.
(2) 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 for projects authorized in accordance with the provisions of section sixteen of this article.

(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. 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.

(n) 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 over a period of 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 a period of 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 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.


(a) The authority is hereby empowered to promulgate, adopt, amend or repeal rules in accordance with the provisions of article three-a, chapter twenty-nine-a of this code.

(b) All rules adopted or promulgated by the authority and in effect immediately prior to the effective date of this section shall be refiled pursuant to the provisions of article three-a, chapter twenty-nine-a of this code on or before the first day of September, two thousand seven.
(1) Any interpretive or procedural rule shall continue in effect until rescinded or appropriately refiled by the authority.

(2) Any legislative rule shall continue in effect until approved or rejected by the Legislature or rescinded by the authority.

ARTICLE 9F. SCHOOL ACCESS SAFETY ACT.

§18-9F-1. Legislative findings and intent.

(a) The Legislature finds that:

(1) Establishing and maintaining safe and secure schools is critical to fostering a healthy learning environment and maximizing student achievement;

(2) All school facilities in the state should be designed, constructed, furnished and maintained in a manner that enhances a healthy learning environment and provides necessary safeguards for the health, safety and security of persons who enter and use the facilities;

(3) Adequate safeguards for the ingress to and egress from school facilities of pupils, school employees, parents, visitors and emergency personnel are critical to the overall safety of the public schools in this state;

(4) Safety upgrades to the means of ingress to and egress from school facilities for pupils, school employees, parents, visitors and emergency personnel must be part of a comprehensive analysis of overall school safety issues that takes into consideration the input of local law-enforcement agencies, local emergency services agencies, community leaders,
21 parents, pupils, teachers, administrators and other
22 school employees interested in the prevention of school
23 crime and violence.

24 (b) It is the intent of the Legislature to empower the
25 School Building Authority to facilitate and provide
26 state funds for the design, construction, renovation,
27 repair and upgrading of facilities so as to enhance
28 school access safety and provide secure ingress to and
29 egress from school facilities to pupils, school employees,
30 parents, visitors and emergency personnel.


1 As used in this article, these terms have the meanings
2 ascribed unless the context clearly indicates a different
3 meaning:

4 (1) “Authority” means the School Building Authority
5 of West Virginia;

6 (2) “Department of Education” means the West
7 Virginia Department of Education;

8 (3) “New school building” means any public school in
9 the state for educating students in any of grades
10 kindergarten through twelve, for which design and
11 construction begin after the first day of July, two
12 thousand seven;

13 (4) “Project cost” means the cost of:

14 (A) Evaluating a school facility to ascertain its safety
15 needs;
(B) Determining appropriate measures to address safety needs;
(C) Developing a safety plan;
(D) Administering a safety project;
(E) The design, construction, renovation, repair and safety upgrading of a school's means of ingress and egress;
(F) Equipment, machinery, installation of utilities and other similar items necessary to making the project operational;
(G) Effectively maintaining structural and equipment investments made pursuant to this article, including, but not limited to, such provisions as maintenance contracts on security equipment and video surveillance services; and
(H) All other charges necessary, appurtenant or incidental to the provisions of this subdivision, including the cost of administering this article;
(5) "School Access Safety Fund" means the special account established in section five of this article;
(6) "School access safety plan" or "safety plan" means the comprehensive countywide school access safety plan that:
(A) Is prepared by each county board seeking funding under this article and incorporated into its comprehensive educational facilities plan in accordance
(B) Addresses the access safety needs for all school facilities in the county;

(C) Includes a projected school access safety repair and renovation schedule for all school facilities of the county; and

(D) Is required prior to the disbursement of state funds for a school access safety project pursuant to this article; and

(7) "School access safety project" or "safety project" means a project administered in furtherance of a school access safety plan pursuant to the provisions of this article.


(a) To facilitate the goals of this article and to ensure the prudent and resourceful expenditure of state funds, each county board seeking funds for school access safety projects during a fiscal year shall submit to the authority a school access safety plan or annual plan update that addresses the school access safety needs of each school facility in the county. In developing its plan, the county board shall consult with the Countywide Council on Productive and Safe Schools in accordance with the provisions of this section and section forty-two, article five of this chapter.

(b) The safety plan shall include at least the following:

(1) A countywide inventory of each school facility's
means of ingress to and egress from the school for
students, school employees, parents, visitors and
emergency personnel including, but not limited to:

(A) The number of controlled points of ingress to the
school facility;

(B) The number and placement of exterior doors;

(C) The use of monitoring systems on exterior doors;

(D) The use of timed, magnetic or other locks on
exterior doors;

(E) The use of two-way communication systems
between points of ingress and school personnel;

(F) The use of functional panic or other alarm
hardware on exterior doors; and

(G) The use of remote visitor access systems on points
of ingress;

(2) The recommendations and guidelines developed by
the Countywide Council on Productive and Safe
Schools pursuant to section forty-two, article five of
this chapter, together with the county board's
assessment of the recommendations and guidelines;

(3) Recommendations for effective communication and
coordination between school facilities, local law-
enforcement agencies and local emergency services
agencies in the county;

(4) An assessment of the current status of crime
commitment on school campuses and at school-related functions;

(5) A projected school access safety repair and renovation schedule for all school facilities in the county;

(6) A prioritized list of all projects contained in the plan, including the projected cost of each project;

(7) A description of how:

(A) The plan addresses the goals of this article and guidelines established by the authority;

(B) Each project furthers the county board's safety plan, facilities plan and school major improvement plan;

(8) Notation of the funds available for allocation and disbursement to the county board pursuant to section six of this article;

(9) A description of any source of local funds that the county board intends to contribute to the safety projects, or an approved financial hardship waiver, to satisfy the local contribution requirements of section six of this article; and

(10) Any other element considered appropriate by the authority or required by the guidelines established pursuant to section three of this article, including any project and maintenance specification.

§18-9F-4. Guidelines and procedures for school access safety
plans; project evaluation; on-site inspection of facilities.

(a) By the first day of June, two thousand seven, the authority shall establish and distribute to each county board guidelines and procedures regarding school access safety plans and school access safety projects, which shall address at least the following:

(1) All of the necessary elements of the school access safety plan required in accordance with the provisions of section three of this article;

(2) The manner, timeline and process for submission to the authority of each safety plan and annual plan update, including guidelines for modification of an approved safety plan;

(3) Any project and maintenance specifications considered appropriate by the authority;

(4) Procedures for a county board to submit a preliminary plan, plan outline or plan proposal to the authority prior to submitting the safety plan. The preliminary plan, plan outline or plan proposal shall be the basis for a consultation meeting between representatives of the county board and the authority. The meeting shall be held as soon as practicable following submission in order to:

(A) Ensure understanding of the goals of this article;

(B) Discuss ways the plan may be structured to meet the goals of this article; and
(C) Ensure efficiency and productivity in the approval process; and

(5) Procedures for notifying county boards of the funds available for allocation and disbursement during each fiscal year pursuant to section six of this article.

(b) By the first day of June, two thousand seven, the authority shall establish and distribute to each county board guidelines and procedures for evaluating safety plans and safety projects that address at least the following:

(1) Whether the proposed safety project furthers the safety plan and complies with the guidelines established by the authority;

(2) How the safety plan and safety project will ensure the prudent and resourceful expenditure of state funds and achieve the purposes of this article;

(3) Whether the safety plan and safety project advance student health and safety needs, including, but not limited to, critical health and safety needs;

(4) Whether the safety plan and safety project include regularly scheduled preventive maintenance; and

(5) Consideration of the prioritized list of projects required by section three of this article.

(c) The authority shall establish guidelines and procedures for allocating and disbursing funds in accordance with section six of this article, subject to the availability of funds.
(d) Each county board receiving funds pursuant to this article annually shall conduct an on-site inspection and submit an audit review to the state board. The inspection shall be conducted in accordance with the provisions of the Department of Education's Handbook on Planning School Facilities.


(a) There is hereby established in the State Treasury a special account designated the School Access Safety Fund.

(b) All funds accruing to the authority pursuant to the provisions of this article shall be deposited into the fund and expended in accordance with provisions of this article.

(c) Any funds remaining in the account at the end of a fiscal year, including accrued interest, do not revert to the General Revenue Fund, but remain in the account.

(d) The authority may transfer moneys from the fund to custodial accounts maintained by the authority with a state financial institution, as necessary to the performance of any contracts executed by the authority in accordance with the provisions of this article.

§18-9F-6. Allocation of funds; eligibility for funding.

(a) On or before the first day of May of each year, the authority shall determine the amount of funds available in the School Access Safety Fund for allocation and disbursement during that fiscal year.
(b) The authority shall divide the amount of funds available pursuant to subsection (a) of this section, by the total net enrollment in public schools for the state as a whole. That quotient is the per pupil amount. The authority shall allocate to each county board the per pupil amount of funds for each student in net enrollment of that county, as defined in section two, article nine-a of this chapter.

(c) The authority shall notify in writing each county board of education the amount of funds available to that board as soon as practicable upon determining that amount pursuant to subsection (b) of this section.

(d) Except as provided in subdivision (3) of this subsection, to be eligible to receive a disbursement of funds pursuant to this article, a county board shall contribute local funds derived from bonding, special levy or other identified sources to the school access safety projects contained in the county board's school access safety plan.

(1) The amount of a county board's contribution shall equal at least fifteen percent of the funds available to the county board pursuant to subsection (b) of this section.

(2) A county board may submit a financial hardship waiver request to the state board for consideration regarding the county board's inability to provide the contribution required by this subsection. Upon review and approval of the request by the state board, the authority shall waive the contribution requirement for that county board and allocate and disburse funds pursuant to this article.
(e) The authority may disburse funds pursuant to this section only to a county board that:

(1) Has a safety plan that has been approved by the authority; and

(2) Is prepared to commence expending the funds during the fiscal year in which the funds are disbursed.

(f) The authority may disburse funds to a county board in a lump sum or according to a schedule of payments adopted by the authority that is consistent with its guidelines.

(g) To encourage county boards to proceed promptly with school access safety planning and to prepare for the expenditure of funds derived pursuant to this article, a county board forfeits any funds that it fails to expend within one year of disbursement by the authority. The county board is ineligible for any additional allocation or disbursement pursuant to this article until it is prepared to expend funds according to an approved school access safety plan.

(1) The authority may authorize an extension beyond the one-year forfeiture period not to exceed an additional six months.

(2) Any forfeited funds shall be returned to the School Access Safety Fund and made available for future allocation and disbursement.

§18-9F-7. School access safety requirements for new schools.

(a) Notwithstanding any other provision of this code
to the contrary, and in an effort to enhance school access safety, the design and construction of any new school building receiving funds from the authority shall comply with the school access safety standards established by the authority. Any new school building that does not comply with the school access safety standards may not receive any funds from the authority pursuant to this article.

(b) The authority shall propose a rule for legislative approval in accordance with the provisions of article three-a, chapter twenty-nine-a of this code that establishes standards for school access safety in public school buildings. The rule shall require for any project that will receive funding pursuant to this article that the county board shall submit any new school design to the authority for review and approval for compliance with this section prior to preparing final bid documents.


The authority shall report to the Legislative Oversight Commission on Education Accountability during the June and September, two thousand seven, and January, two thousand eight, interim meeting periods regarding implementation of the provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within is approved this 4th Day of April, 2007.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

APR 02 2007

Time 3:25 pm