

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2380

BY DELEGATES ELLINGTON AND TONEY

[Passed March 7, 2023; in effect ninety days from passage.]

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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1 AN ACT to repeal §18-9D-5 of the Code of West Virginia, 1931, as amended; to amend and
2 reenact §18-9A-10 of said code; and to amend and reenact §18-9D-2, §18-9D-3, §18-9D-
3 4, §18-9D-6, §18-9D-7, §18-9D-8, §18-9D-9, §18-9D-13, §18-9D-15, and §18-9D-19 of
4 said code, all relating to removing or revising obsolete, outdated, antiquated, inoperative,
5 surplus or superseded provisions relating to defining terms; allowing funding directly to
6 school construction fund instead of through school aid formula; removing references to
7 regional education service agencies; removing authority to issue general obligation bonds;
8 closing capital improvements fund and transferring funding to school construction fund;
9 requiring authority to request appropriation; repealing authority to offer higher education
10 savings plans; providing purposes and revenue sources for other funds and use of use of
11 proceeds of bonds; and removing findings related to comprehensive high schools.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10. Foundation allowance to improve instructional programs, instructional technology, and teacher and leader induction and professional growth.

1 (a) The total allowance to improve instructional programs and instructional technology is
2 the sum of the following:

3 (1) For instructional improvement, in accordance with county and school electronic
4 strategic improvement plans required by §18-2E-5 of this code, an amount equal to 10 percent of
5 the increase in the local share amount for the next school year shall be added to the amount of
6 the appropriation for this purpose for the immediately preceding school year. The sum of these
7 amounts shall be allocated to the counties as follows:

8 (A) One hundred fifty thousand dollars shall be allocated to each county; and

9 (B) Allocation to the counties of the remainder of these funds shall be made proportional
10 to the average of each county's average daily attendance for the preceding year and the county's
11 second month net enrollment.

12 Moneys allocated by this subdivision shall be used to improve instructional programs
13 according to the county and school strategic improvement plans required by §18-2E-5 of this code
14 and approved by the state board.

15 Up to 50 percent of this allocation for the improvement of instructional programs may be
16 used to employ professional educators and service personnel in the county. Prior to the use of
17 any funds from this subdivision for personnel costs, the county board must receive authorization
18 from the State Superintendent. The State Superintendent shall require the county board to
19 demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3)
20 sharing of services with adjoining counties in the use of the total local district board budget; and
21 (4) employment of technology integration specialists to meet the needs for implementation of the
22 West Virginia Strategic Technology Learning Plan. County boards shall make application for the
23 use of funds for personnel for the next fiscal year by May 1 of each year. On or before June 1,
24 the State Superintendent shall review all applications and notify applying county boards of the
25 approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The
26 State Superintendent shall require the county board to demonstrate the need for an allocation for
27 personnel based upon the county's inability to meet the requirements of state law or state board
28 policy.

29 The funds available for personnel under this subdivision may not be used to increase the
30 total number of professional noninstructional personnel in the central office beyond four.

31 The plan shall be made available for distribution to the public at the office of each affected
32 county board; plus

33 (2) For the purposes of improving instructional technology, an amount equal to 20 percent
34 of the increase in the local share amount for the next school year shall be added to the amount
35 of the appropriation for this purpose for the immediately preceding school year. The sum of these
36 amounts shall be allocated to the counties as follows:

37 (A) Thirty thousand dollars shall be allocated to each county; and

38 (B) Allocation to the counties of the remainder of these funds shall be made proportional
39 to the average of each county's average daily attendance for the preceding year and the county's
40 second month net enrollment.

41 Moneys allocated by this subdivision shall be used to improve instructional technology
42 programs according to the county board's strategic technology learning plan.

43 This allocation for the improvement of instructional technology programs may also be used
44 for the employment of technology system specialists essential for the technology systems of the
45 schools of the county to be fully functional and readily available when needed by classroom
46 teachers. The amount of this allocation used for the employment of technology system specialists
47 shall be included and justified in the county board's strategic technology learning plan; plus

48 (3) One percent of the state average per pupil state aid multiplied by the number of
49 students enrolled in dual credit, advanced placement, and international baccalaureate courses,
50 as defined by the state board, distributed to the counties proportionate to enrollment in these
51 courses in each county; plus

52 (4) For the purpose of supporting county-level implementation of the comprehensive
53 systems for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this
54 code, an amount equal to 20 percent of the increase in the local share amount for the next school
55 year shall be added to the amount of the appropriation for this purpose for the immediately
56 preceding school year. The sum of these amounts shall be allocated to the counties in a manner
57 established by the state board which considers the following factors:

58 (A) The number of full-time-equivalent teachers employed by the county with zero years
59 of experience;

60 (B) The total number of full-time-equivalent teachers employed by the county with one
61 year of experience, with two years of experience, and with three years of experience;

62 (C) The number of full-time-equivalent principals, assistant principals, and vocational
63 administrators employed by the county who are in their first or second year of employment as a
64 principal, assistant principal, or vocational administrator;

65 (D) The number of full-time-equivalent principals, assistant principals, and vocational
66 administrators employed by the county who are in their first year in an assignment at a school
67 with a programmatic level in which they have not previously served as a principal, assistant
68 principal, or vocational administrator; and

69 (E) Needs identified in the strategic plans for continuous improvement of schools and
70 school systems including those identified through the performance evaluations of professional
71 personnel.

72 Notwithstanding any provision of this subsection to the contrary, no county may receive
73 an allocation for the purposes of this subdivision which is less than the county's total 2016-2017
74 allocation from the Teacher Mentor and Principals Mentorship appropriations to the Department
75 of Education. Moneys allocated by this subdivision shall be used for implementation of the
76 comprehensive systems for teacher and leader induction and professional growth pursuant to
77 §18A-3C-3 of this code. Notwithstanding any provision of this subsection to the contrary, for each
78 of the five school years beginning with the school year 2020 – 2021 and ending after the school
79 year 2024 – 2025, from funds to be allocated under this subdivision, \$100,000 shall be retained
80 by the Department of Education to assist county boards with the design and implementation of a
81 teacher leader framework to accomplish the teacher induction and professional growth aspects
82 of their comprehensive systems of support for teacher and leader induction and professional
83 growth pursuant to §18A-3C-3 of this code.

84 (b) Notwithstanding the restrictions on the use of funds pursuant to subdivisions (1) and
85 (2), subsection (a) of this section, a county board may:

86 (1) Utilize up to 25 percent of the allocation for the improvement of instructional programs
87 in any school year for school facility and equipment repair, maintenance, and improvement or

88 replacement and other current expense priorities and for emergency purposes. The amount of
89 this allocation used for any of these purposes shall be included and justified in the county and
90 school strategic improvement plans or amendments thereto; and

91 (2) Utilize up to 50 percent of the allocation for improving instructional technology in any
92 school year for school facility and equipment repair, maintenance, and improvement or
93 replacement and other current expense priorities and for emergency purposes. The amount of
94 this allocation used for any of these purposes shall be included and justified in the county board's
95 strategic technology learning plan or amendments thereto.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-2. Definitions.

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

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

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

5 (3) "Construction project" means a project in the furtherance of a facilities plan with a cost
6 greater than \$1 million for the new construction, expansion or major renovation of facilities,
7 buildings, and structures for school purposes, including:

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

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

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

13 (D) Construction project does not include such items as books, computers or equipment
14 used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance
15 costs; ordinary course of business improvements; other items which are customarily considered

16 to result in a current or ordinary course of business operating charge or a major improvement
17 project;

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

24 (5) "Facilities plan" means the 10-year countywide comprehensive educational facilities
25 plan established by a county board in accordance with guidelines adopted by the authority to meet
26 the goals and objectives of this article that:

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

30 (B) Best serves the needs of individual students, the general school population and the
31 communities served by the facilities, including, but not limited to, providing for a facility
32 infrastructure that avoids excessive school bus transportation times for students consistent with
33 sound educational policy and within the budgetary constraints for staffing and operating the
34 schools of the county;

35 (C) Includes the school major improvement plan;

36 (D) Includes the county board's school access safety plan required by §18-9F-3 of this
37 code;

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

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

- 42 (6) "Project" means a construction project or a major improvement project;
- 43 (7) "Revenue" or "revenues" means moneys:
- 44 (A) Deposited in the School Construction Fund pursuant to §18-9D-6 of this code.
- 45 (B) Deposited in the School Construction Fund pursuant to §11-15-30 of this code and
- 46 §29-22-18 of this code;
- 47 (C) Deposited in the School Building Debt Service Fund pursuant to §29-22-18 of this
- 48 code;
- 49 (D) Deposited in the School Major Improvement Fund pursuant to §11-15-30 of this code;
- 50 (E) Received, directly or indirectly, from any source for use in any project completed
- 51 pursuant to this article;
- 52 (F) Received by the authority for the purposes of this article; and
- 53 (G) Deposited in the Excess Lottery School Building Debt Services Fund pursuant to §29-
- 54 22-18a of this code.
- 55 (8) "School major improvement plan" means a 10-year school maintenance plan that:
- 56 (A) Is prepared by a county board in accordance with the guidelines established by the
- 57 authority and incorporated in its Countywide Comprehensive Educational Facilities Plan, or is
- 58 prepared by the state board or the administrative council of an area vocational educational center
- 59 in accordance with the guidelines if the entities seek funding from the authority for a major
- 60 improvement project;
- 61 (B) Addresses the regularly scheduled maintenance for all school facilities of the county
- 62 or under the jurisdiction of the entity seeking funding;
- 63 (C) Includes a projected repair and replacement schedule for all school facilities of the
- 64 county or of entity seeking funding;
- 65 (D) Addresses the major improvement needs of each school within the county or under
- 66 the jurisdiction of the entity seeking funding; and

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

69 (9) "School major improvement project" means a project with a cost greater than \$50,000
70 and less than \$1 million for the renovation, expansion, repair, and safety upgrading of existing
71 school facilities, buildings, and structures, including the substantial repair or upgrading of
72 equipment, machinery, building systems, utilities and other similar items related to the renovation,
73 repair or upgrading in the furtherance of a school major improvement plan. A major improvement
74 project does not include such items as books, computers or equipment used for instructional
75 purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course
76 of business improvements; or other items which are customarily considered to result in a current
77 or ordinary course of business operating charge.

§18-9D-3. Powers of authority; School Building Authority Fund.

1 (a) The School Building Authority has the power:
2 (1) To sue and be sued, plead, and be impleaded;
3 (2) To have a seal and alter the same at pleasure;
4 (3) To contract to acquire and to acquire, in the name of the authority, by purchase, lease-
5 purchase not to exceed a term of 25 years, or otherwise, real property or rights or easements
6 necessary or convenient for its corporate purposes and to exercise the power of eminent domain
7 to accomplish those purposes;
8 (4) To acquire, hold and dispose of real and personal property for its corporate purposes;
9 (5) To make bylaws for the management and rule of its affairs;
10 (6) To appoint, contract with and employ attorneys, bond counsel, accountants,
11 construction and financial experts, underwriters, financial advisers, trustees, managers, officers,
12 and such other employees and agents as may be necessary in the judgment of the authority and
13 to fix their compensation: *Provided*, That contracts entered into by the School Building Authority
14 in connection with the issuance of bonds under this article to provide professional and technical

15 services, including, without limitation, accounting, actuarial, underwriting, consulting, trustee,
16 bond counsel, legal services, and contracts relating to the purchase or sale of bonds are subject
17 to the provisions of §5A-3-1 *et seq.* of this code: *Provided, however,* That notwithstanding any
18 other provisions of this code, any authority of the Attorney General of this state relating to the
19 review of contracts and other documents to effectuate the issuance of bonds under this article
20 shall be exclusively limited to the form of the contract and document: *Provided further,* That the
21 Attorney General of this state shall complete all reviews of contracts and documents relating to
22 the issuance of bonds under this article within 10 calendar days of receipt of the contract and
23 document for review;

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

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

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

30 (10) To require proper maintenance and insurance of any project authorized under this
31 section, including flood insurance for any facility within the 100-year flood plain at which authority
32 funds are expended;

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

36 (12) To assist any county board of education that chooses to acquire land, buildings and
37 capital improvements to existing school buildings and property for use as public school facilities,
38 by lease from a private or public lessor for a term not to exceed 25 years with an option to
39 purchase pursuant to an investment contract with the lessor on such terms and conditions as may
40 be determined to be in the best interests of the authority, the State Board of Education and the

41 county board of education, consistent with the purposes of this article, by transferring funds to the
42 State Board of Education as provided in §18-9D-15(f) of this code for the use of the county board
43 of education;

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

49 (14) To enter on any lands and premises for the purpose of making surveys, soundings
50 and examinations;

51 (15) To contract for architectural, engineering or other professional services considered
52 necessary or economical by the authority to provide consultative or other services to the authority
53 or county board requesting professional services offered by the authority, to evaluate any facilities
54 plan or any project encompassed in the plan, to inspect existing facilities or any project that has
55 received or may receive funding from the authority or to perform any other service considered by
56 the authority to be necessary or economical. Assistance to the district may include the
57 development of preapproved systems, plans, designs, models, or documents; advice or oversight
58 on any plan or project; or any other service that may be efficiently provided to county boards by
59 the authority;

60 (16) To provide funds on an emergency basis to repair or replace property damaged by
61 fire, flood, wind, storm, earthquake or other natural occurrence, the funds to be made available in
62 accordance with guidelines of the School Building Authority;

63 (17) To transfer moneys to custodial accounts maintained by the School Building Authority
64 with a state financial institution from the School Construction Fund and the School Improvement
65 Fund created in the State Treasury pursuant to §18-9D-6 of this code, as necessary to the

66 performance of any contracts executed by the School Building Authority in accordance with the
67 provisions of this article;

68 (18) To enter into agreements with county boards and persons, firms or corporations to
69 facilitate the development of county board projects and county board facilities plans. The county
70 board participating in an agreement shall pay at least 25 percent of the cost of the agreement.
71 Nothing in this section may be construed to supersede, limit, or impair the authority of county
72 boards to develop and prepare their projects or plans;

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

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

86 (b) The special revenue account in the State Treasury known as the "School Building
87 Authority Fund" is hereby continued. The fund is to be administered by the School Building
88 Authority. Expenditures from the fund shall be for the purposes set forth in this article and are not
89 authorized from collections but are to be made only in accordance with appropriation by the
90 Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon
91 fulfillment of the provisions of §11B-2-1 *et seq.* of this code.

§18-9D-4. School building authority authorized to issue refunding revenue bonds for school building capital improvement projects.

1 The School Building Authority may by resolution, in accordance with the provisions of this
2 article, issue revenue bonds of the authority from time to time, either to finance the cost of
3 construction projects for public schools in this state, or to refund, at the discretion of the authority,
4 bonds issued to finance the cost of the construction projects for public schools in this state and
5 outstanding under and pursuant to the provisions of this article. The principal of, interest and
6 redemption premium, if any, on the bonds shall be payable solely from the special fund herein
7 provided for such payment.

§18-9D-5. School building authority authorized to offer individual higher education savings plans.

1 [Repealed.]

§18-9D-6. 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; Excess Lottery School Building Debt Service Fund in State Treasury; authority to pledge the collections as security for refunding revenue bonds; authority to finance projects on a cash basis.

1 (a) The School Building Capital Improvements Fund is closed and terminated upon the
2 effective date of the 2023 enactment of this section. Any moneys remaining in the fund shall be
3 transferred to the School Construction Fund.

4 (b) There is continued in the State Treasury a special revenue fund named the School
5 Building Debt Service Fund into which shall be deposited the amounts specified in §29-22-18 of
6 this code. All amounts deposited in the fund shall be pledged to the repayment of the principal,
7 interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds
8 authorized by this article for which moneys deposited in the School Building Debt Service Fund
9 have been pledged by the authority. Additionally, the authority may provide in the resolution and

10 in the trust agreement for priorities on the revenues paid into the School Building Debt Service
11 Fund that are necessary for the protection of the prior rights of the holders of bonds issued at
12 different times under the provisions of this article. On or prior to May 1 of each year, the authority
13 shall certify to the state Lottery Director the principal and interest and coverage ratio requirements
14 for the following fiscal year on any revenue bonds issued on or after January 1, 1994, and for
15 which moneys deposited in the School Building Debt Service Fund have been pledged, or will be
16 pledged, for repayment pursuant to this section.

17 After the authority has issued bonds authorized by this article for which moneys deposited
18 in the School Building Debt Service Fund have been pledged and after the requirements of all
19 funds have been satisfied, including coverage and reserve funds established in connection with
20 the bonds issued pursuant to this article, any balance remaining in the School Building Debt
21 Service Fund may be used for the redemption of any of the outstanding bonds issued under this
22 article, for which moneys deposited in the School Building Debt Service Fund have been pledged,
23 which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the
24 market price, but not to exceed the price, if any, at which the bonds are redeemable and all bonds
25 redeemed or purchased shall be immediately canceled and may not again be issued: *Provided,*
26 That after the authority has issued bonds authorized by this article and after the requirements of
27 debt service and all associated funds have been satisfied for the fiscal year for which moneys
28 deposited in the School Building Debt Service Fund have been pledged, including coverage and
29 reserve funds established in connection with the bonds issued pursuant to this article, any
30 remaining balance in the School Building Debt Service Fund may be transferred to the School
31 Construction Fund created in subsection (c) of this section and used by the School Building
32 Authority in its discretion to finance the cost of school construction or improvement projects
33 authorized in accordance with the provisions of §18-9D-16 of this code on a cash basis.

34 (c) There is continued in the State Treasury a special revenue fund named the School
35 Construction Fund into which shall be deposited the amounts specified in §11-15-30 of this code,
36 together with any moneys appropriated to the fund by the Legislature.

37 Expenditures from the School Construction Fund shall be for the purposes set forth in this
38 article, including lease-purchase payments under agreements made pursuant to §18-9D-15 (e)
39 of this code and §18-5-9 of this code and are authorized from collections in accordance with the
40 provisions of §12-3-1 *et seq.* of this code and from other revenues annually appropriated by the
41 Legislature from lottery revenues as authorized by §29-22-18 of this code pursuant to the
42 provisions set forth in §5A-2-1 *et seq.* of this code. Amounts collected which are found, from time
43 to time, to exceed the funds needed for purposes set forth in this article may be transferred to
44 other accounts or funds and redesignated for other purposes by appropriation of the Legislature.
45 The School Construction Fund shall be an interest-bearing account, with the interest credited to
46 and deposited in the School Construction Fund and expended in accordance with the provisions
47 of this article. Deposits to and expenditures from the School Construction Fund are subject to the
48 provisions of §18-9D-15(k) of this code.

49 (d) There is continued in the State Treasury a special revenue fund named the School
50 Major Improvement Fund into which shall be deposited the amounts specified in §11-15-30 of this
51 code, together with any moneys appropriated to the fund by the Legislature. Expenditures from
52 the School Major Improvement Fund shall be for the purposes set forth in this article and are
53 authorized from collections in accordance with the provisions of §12-3-1 *et seq.* of this code and
54 from other revenues annually appropriated by the Legislature from lottery revenues as authorized
55 by §29-22-18 of this code pursuant to the provisions set forth in §5A-2-1 *et seq.* of this code.
56 Amounts collected which are found, from time to time, to exceed the funds needed for purposes
57 set forth in this article may be transferred to other accounts or funds and redesignated for other
58 purposes by appropriation of the Legislature. The School Major Improvement Fund shall be an

59 interest-bearing account, with interest being credited to and deposited in the School Major
60 Improvement Fund and expended in accordance with the provisions of this article.

61 (e) There is created in the State Treasury a special revenue fund named the Excess
62 Lottery School Building Debt Service Fund into which shall be deposited the amounts specified in
63 §29-22-18a of this code. All amounts deposited in the fund shall be pledged, as designated by
64 the authority, to the repayment of the principal, interest, and redemption premium, if any, on
65 revenue bonds or refunding revenue bonds authorized by §18-9D-4b of this code. On or prior to
66 May 1 of each year, the authority shall certify to the state Lottery Director the principal and interest
67 and coverage ratio requirements for the following fiscal year on any revenue bonds issued for
68 which moneys deposited in the Excess Lottery School Building Debt Service Fund have been
69 pledged, or will be pledged, for repayment pursuant to this section.

70 After the authority has issued bonds authorized by this article for which moneys deposited
71 in the Excess Lottery School Building Debt Service Fund have been pledged and after the
72 requirements of all funds have been satisfied, including coverage and reserve funds established
73 in connection with the bonds issued pursuant to this article, any balance remaining in the Excess
74 Lottery School Building Debt Service Fund may be used for the redemption of any of the
75 outstanding bonds issued under this article, for which moneys deposited in the Excess Lottery
76 School Building Debt Service Fund have been pledged, which, by their terms, are then
77 redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed
78 the price, if any, at which the bonds are redeemable and all bonds redeemed or purchased shall
79 be immediately canceled and may not again be issued: *Provided*, That after the authority has
80 issued bonds authorized by this article and after the requirements of debt service and all
81 associated funds have been satisfied for the fiscal year, including coverage and reserve funds
82 established in connection with the bonds issued pursuant to this article for which moneys
83 deposited in the Excess Lottery School Building Debt Service Fund have been pledged, any
84 remaining balance in the Excess Lottery School Building Debt Service Fund may be transferred

85 to the School Construction Fund created in subsection (c) of this section and used by the School
86 Building Authority in its discretion to finance the cost of school construction or improvement
87 projects authorized in accordance with the provisions of §18-9D-16 of this code on a cash basis.

88 (f) Beginning for fiscal year 2023 and each fiscal year thereafter, the School Building
89 Authority shall annually request the Governor to include in the budget bill an amount equal to \$24
90 million for appropriation to the agency's General Revenue Fund. These funds shall be transferred
91 to the School Construction Fund and used for purposes set out within subsection (e) of this
92 section.

93 (g) The Legislature finds and declares that the Supreme Court of Appeals of West Virginia
94 has held that the issuance of additional revenue bonds authorized under the School Building
95 Authority Act, as enacted in this article prior to July 20, 1993, constituted an indebtedness of the
96 state in violation of section four, article X of the Constitution of West Virginia, but that revenue
97 bonds issued under this article prior to July 20, 1993, are not invalid.

98 The Legislature further finds and declares that the financial capacity of a county to
99 construct, lease and improve school facilities depends upon the county's bonding capacity (local
100 property wealth), voter willingness to pass bond issues and the county's ability to reallocate other
101 available county funds instead of criteria related to educational needs or upon the ability of the
102 School Building Authority created in this article to issue bonds that comply with the holding of the
103 West Virginia Supreme Court of Appeals or otherwise assist counties with the financing of facilities
104 construction and improvement. The Legislature further finds and declares that this section, as well
105 as §29-22-18 of this code, had been reenacted during the first extraordinary session of the West
106 Virginia Legislature in the year 1994 in an attempt to comply with the holding of the Supreme
107 Court of Appeals of West Virginia.

108 The Legislature further finds and declares that it intends, through the reenactment of this
109 section and §29-22-18 of this code, to dedicate a source of state revenues to special revenue
110 funds for the purposes of paying the debt service on bonds and refunding bonds issued

111 subsequent to January 1, 1994, the proceeds of which will be used for the construction and
112 improvement of school building facilities. The Legislature further finds and declares that it intends,
113 through the reenactment of this section and §11-15-30 of this code and §29-22-18 of this code,
114 to appropriate revenues to two special revenue funds for the purposes of construction and
115 improvement of school building facilities. Furthermore, the Legislature intends to encourage
116 county boards to maintain existing levels of county funding for construction, improvement, and
117 maintenance of school building facilities and to generate additional county funds for those
118 purposes through bonds and special levies whenever possible. The Legislature further
119 encourages the School Building Authority, the state board and county boards of education to
120 propose uniform project specifications for comparable projects whenever possible to meet county
121 needs at the lowest possible cost.

122 The Legislature further finds and declares that it intends, through the reenactment of this
123 section and §29-22-18 of this code, to comply with the provisions of sections four and six, article
124 X of the Constitution of West Virginia; and section one, article XII of said Constitution.

§18-9D-7. Authority to fix and collect rents.

1 The authority may fix and collect a rental fee for the use of all or any part of a capital
2 improvement project completed under this article to provide revenues for deposit in the School
3 Construction Fund to pay, in whole or in part, the principal of, interest and redemption premium,
4 if any, on the bonds authorized to be issued pursuant to this article as the same mature and
5 become due and to make all reserve and other payments to be required by the proceedings which
6 authorize these bonds; to provide any additional protective pledge of revenues and reserve or
7 other payments as the School Building Authority may require by the resolution authorizing any
8 issue of bonds pursuant to this article and any trust agreement made in connection therewith; and
9 to make any other payments required or authorized by this article or any proceedings, resolutions
10 or trust agreements authorized hereunder.

§18-9D-8. Use of proceeds of bonds; bonds exempt from taxation.

1 (a) The maximum aggregate amount of bonds outstanding at any time, for which the
2 moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt
3 Service Fund are to be pledged, is \$500 million; however, any amount of bonds for which moneys
4 have been deposited in a sinking fund, reserve fund or other fund established to provide payment
5 of principal or interest on the bonds shall be excluded from the calculation of the maximum
6 aggregate amount of bonds outstanding at any time. The issuance of revenue bonds under this
7 article shall be authorized, from time to time, by resolution or resolutions of the School Building
8 Authority, copies of which shall be provided to the Governor, the President of the Senate and the
9 Speaker of the House of Delegates within five days of their approval, which shall set forth the
10 proposed projects authorized in accordance with §18-9D-16 of this code and provide for the
11 issuance of bonds in amounts sufficient, when sold as provided in this section, to provide moneys
12 considered sufficient by the authority to pay the costs, less the amounts of any other funds
13 available for the costs or from any appropriation, grant or gift for the costs: *Provided*, That bond
14 issues from which bond revenues are to be distributed in accordance with §18-9D-15 of this code
15 for projects authorized pursuant to §18-9D-16 of this code are not required to set forth the
16 proposed projects in the resolution. The resolution shall prescribe the rights and duties of the
17 bondholders and the School Building Authority and, for that purpose, may prescribe the form of
18 the trust agreement referred to in this section. The bonds may be issued, from time to time, in
19 such amounts; shall be of such series; bear such date or dates; mature at such time or times not
20 exceeding 40 years from their respective dates; bear interest at such rate or rates; be in such
21 denominations; be in such form, either coupon or registered, carrying such registration,
22 exchangeability and interchangeability privileges; be payable in such medium of payment and at
23 such place or places within or without the state; be subject to such terms of redemption at such
24 prices not exceeding 105 percent of the principal amount of the bonds; and be entitled to the
25 priorities on the revenues paid into the fund pledged for repayment of the bonds as may be

26 provided in the resolution authorizing the issuance of the bonds or in any trust agreement made
27 in connection with the bonds: *Provided, however,* That revenue bonds issued on or after January
28 1, 2008, which are secured by lottery proceeds from §29-22-18 or §29-22-18a of this code, shall
29 mature at such time or times not exceeding 20 years from their respective dates.

30 (b) The bonds shall be signed by the Governor, his or her designee or the vice chair of the
31 authority, under the great seal of the state, attested by the Secretary of State, and the coupons
32 attached to the bonds shall bear the facsimile signature of the Governor, his or her designee or
33 the vice chair of the authority. If any of the officers whose signatures appear on the bonds or
34 coupons cease to be officers before the delivery of the bonds, the signatures shall nevertheless
35 be valid and sufficient for all purposes the same as if the officers had remained in office until the
36 delivery. The revenue bonds shall be sold in the manner determined by the authority to be for the
37 best interests of the State.

38 (c) The proceeds of any bonds shall be used solely for the purpose or purposes as may
39 be generally or specifically set forth in the resolution authorizing those bonds and shall be
40 disbursed in the manner and with the restrictions, if any, that the authority provides in the
41 resolution authorizing the issuance of the bonds or in the trust agreement referred to in this section
42 securing the bonds. If the proceeds of the bonds, by error in calculations or otherwise, are less
43 than the cost of any projects specifically set forth in the resolution, additional bonds may in like
44 manner be issued to provide the amount of the deficiency; and unless otherwise provided for in
45 the resolution or trust agreement hereinafter mentioned, the additional bonds shall be considered
46 to be of the same issue and are entitled to payment from the same fund, without preference or
47 priority, as the bonds before issued for the projects. If the proceeds of bonds issued for the
48 projects specifically set forth in the resolution authorizing the bonds issued by the authority exceed
49 the cost of the bonds, the surplus may be used for any other projects authorized in accordance
50 with §18-9D-16 of this code or in any other manner that the resolution authorizing the bonds
51 provides. Prior to the preparation of definitive bonds, the authority may, under like restrictions,

52 issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the
53 issuance of the definitive bonds.

54 (d) After the issuance of any revenue bonds, the revenues pledged for the revenue bonds
55 may not be reduced as long as any of the revenue bonds are outstanding and unpaid except
56 under the terms, provisions and conditions that are contained in the resolution, trust agreement
57 or other proceedings under which the revenue bonds were issued.

58 (e) The revenue bonds and the revenue refunding bonds and bonds issued for combined
59 purposes, together with the interest on the bonds, are exempt from all taxation by the State of
60 West Virginia, or by any county, school district, municipality, or political subdivision thereof.

61 (f) Any school construction bonds issued under this section shall be issued on parity with
62 any existing School Building Authority bonds previously issued under this article.

**§18-9D-9. Issuance of revenue refunding bonds; use of moneys; power to enter into
escrow agreements; call for redemption.**

1 The issuance of revenue refunding bonds under the provisions of this article shall be
2 authorized by resolution of the School Building Authority and shall otherwise be subject to the
3 limitations, conditions, and provisions of other revenue bonds under this article. The revenue
4 refunding bonds may be issued in an amount at the option of the authority sufficient to pay either
5 in part or in full, together with interest earned on the investment of the proceeds thereof, whether
6 or not at the time of the issuance of the revenue refunding bonds the hereafter mentioned bonds
7 are payable or callable for optional redemption: (1) The principal of the outstanding bonds; (2) the
8 redemption premium, if any, on the outstanding bonds if they are to be redeemed prior to maturity;
9 (3) the interest due and payable on the outstanding bonds to and including the maturity date
10 thereof or the first date upon which the outstanding bonds are to be redeemed, including any
11 interest theretofore accrued and unpaid; and (4) all expenses of the issuance and sale of said
12 revenue refunding bonds, including all necessary financial and legal expenses, and also including
13 the creation of initial debt service reserve funds. Any existing moneys pledged with respect to the

14 outstanding bonds may be used for any or all of the purposes stated in (1), (2), (3) and (4) above
15 or may be deposited in a sinking fund or reserve fund or other funds for the issue of bonds which
16 have been issued wholly or in part for the purpose of such refunding. Such amount of the proceeds
17 of the revenue refunding bonds as shall be sufficient for the payment of the principal, interest and
18 redemption premium, if any, on the outstanding bonds which will not be immediately due and
19 payable shall be deposited in trust, for the sole purpose of making such payments, in a banking
20 institution chosen by the authority and in accordance with any provisions which may be included
21 in the resolution authorizing the issuance of such bonds or in the trust agreement securing the
22 same. Any of the moneys so deposited in trust may, prior to the date on which such moneys will
23 be needed for the payment of principal of, interest and redemption premium, if any, on the
24 outstanding bonds, be invested and reinvested as determined by the authority, in whole or in part:
25 (a) In direct obligations issued by the United States of America or one of its agencies or in direct
26 obligations of the State of West Virginia; (b) in obligations unconditionally guaranteed by the
27 United States of America as to principal and interest; or (c) in certificates of deposit of a banking
28 corporation or association which is a member of the federal deposit insurance corporation, or
29 successor; but any such certificates of deposit must be fully secured as to both principal and
30 interest by pledged collateral consisting of direct obligations of or obligations guaranteed by the
31 United States of America, or direct obligations of the State of West Virginia, having a market
32 value, excluding accrued interest, at all times at least equal to the amount of the principal of and
33 accrued interest on the certificates of deposit. Any such investments must mature, or be payable
34 in advance of maturity at the option of the holder, and shall bear interest in such manner as to
35 provide funds which, together with uninvested money, will be sufficient to pay when due or called
36 for redemption the bonds refunded, together with interest accrued and to accrue thereon and
37 redemption premiums, if any, and the refunding bonds' proceeds or obligations so purchased
38 therewith shall be deposited in escrow and held in trust for the payment and redemption of the
39 bonds refunded: *Provided*, That if interest earned by any investment in the escrow is shown to be

40 in excess of the amounts required from time to time for the payment of interest on and principal
41 of the refunded bonds, including applicable redemption premium, then the excess may be
42 withdrawn from escrow and disbursed in such manner as the authority shall by resolution
43 determine. Any moneys in the sinking or reserve funds or other funds maintained for the
44 outstanding bonds to be refunded may be applied in the same manner and for the same purpose
45 as are the net proceeds of refunding bonds or may be deposited in the special fund or any reserve
46 funds established for account of the refunding bonds.

47 The authority to issue revenue refunding bonds shall be in addition to any other authority
48 to refund bonds conferred by law.

49 The School Building Authority may enter into such escrow agreements with such bank or
50 banks and to insert therein such protective and other covenants and provisions as it may consider
51 necessary to permit the carrying out of the provisions of this article and to ensure the prompt
52 payment of the principal of and interest and redemption premiums on the revenue bonds
53 refunded.

54 Where any revenue bonds to be refunded are not to be surrendered for exchange or
55 payment and are not to be paid at maturity with escrowed obligations, but are to be paid from
56 such source prior to maturity pursuant to call for redemption exercised under a right of redemption
57 reserved in such revenue bonds, the authority shall, prior to the issuance of the refunding bonds,
58 determine which redemption date or dates shall be used, call the revenue bonds for redemption
59 and provide for the giving of the notice of redemption required by the proceedings authorizing the
60 revenue bonds. Where notice is to be given at a time subsequent to the issuance of the refunding
61 bonds, the necessary notices may be deposited with the State Treasurer or the bank acting as
62 escrow agent of the refunding bond proceeds and the escrow agent appropriately instructed and
63 authorized to give the required notices at the prescribed time or times. If any officer of the public
64 body signing any such notice shall no longer be in office at the time of the utilization of the notice,
65 the notice shall nevertheless be valid and effective for its intended purpose.

§18-9D-13. Payment of bonds.

1 From the School Building Debt Service Fund or the Excess Lottery School Building Debt
2 Service Fund, the authority shall make periodic payments in an amount sufficient to meet the
3 requirements of any issue of bonds sold under the provisions of this article and for which the
4 authority has pledged revenues in the fund for the payment of the bonds, as may be specified in
5 the resolution of the authority authorizing the issue thereof or in any trust agreement entered into
6 in connection therewith. The payments so made shall be placed as specified in the resolution or
7 trust agreement in a special sinking fund which is hereby pledged to and charged with the
8 payment of the principal of the bonds of the issue and the interest thereon, and to the redemption
9 or repurchase of the bonds, the sinking fund to be a fund for all bonds of the particular issue
10 without distinction or priority of one over another, except as may be provided in the resolution
11 authorizing the issuance of the bonds. The moneys in the special sinking fund, less the reserve
12 for payment of principal and interest and redemption premium, if any, as may be required by the
13 resolution of the School Building Authority authorizing the issue or any trust agreement made in
14 connection therewith, may be used for redemption of any of the outstanding bonds payable from
15 the fund which by their terms are then redeemable, or for the purchase of bonds at the market
16 price, but not exceeding the price, if any, at which the bonds shall in the same year be
17 redeemable; and all bonds redeemed or purchased shall forthwith be canceled and may not again
18 be issued.

**§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.**

1 (a) It is the intent of the Legislature to empower the School Building Authority to facilitate
2 and provide state funds and to administer all federal funds provided for the construction and major

3 improvement of school facilities so as to meet the educational needs of the people of this state in
4 an efficient and economical manner. The authority shall make funding determinations in
5 accordance with the provisions of this article and shall assess existing school facilities and each
6 facility's school major improvement plan in relation to the needs of the individual student, the
7 general school population, the communities served by the facilities and facility needs statewide.

8 (b) An amount that is not more than 10 percent of the sum of moneys that are determined
9 by the authority to be available for distribution during the then current fiscal year from:

10 (1) The issuance of revenue bonds for which moneys in the School Building Debt Service
11 Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

12 (2) Moneys paid into the School Construction Fund pursuant to §18-9D-6 of this code; and

13 (3) Any other moneys received by the authority, except moneys paid into the School Major
14 Improvement Fund pursuant to §18-9D-6 of this code and moneys deposited into the School
15 Access Safety Fund pursuant to §18-9F-5 of this code, may be allocated and may be expended
16 by the authority for projects authorized in accordance with §18-9D-16 of this code that service the
17 educational community statewide or, upon application by the state board, for educational
18 programs that are under the jurisdiction of the state board. In addition, upon application by the
19 state board or the administrative council of an area vocational educational center established
20 pursuant to §18-2B-1 *et seq.* of this code, the authority may allocate and expend under this
21 subsection moneys for school major improvement projects authorized in accordance with §18-
22 9D-16 of this code proposed by the state board or an administrative council for school facilities
23 under the direct supervision of the state board or an administrative council, respectively.
24 Furthermore, upon application by a county board, the authority may allocate and expend under
25 this subsection moneys for school major improvement projects for vocational programs at
26 comprehensive high schools, vocational programs at comprehensive middle schools, vocational
27 schools cooperating with community and technical college programs, or any combination of the
28 three. Each county board is encouraged to cooperate with community and technical colleges in

29 the use of existing or development of new vocational technical facilities. All projects eligible for
30 funds from this subsection shall be submitted directly to the authority which shall be solely
31 responsible for the project's evaluation, subject to the following:

32 (A) Any project funded by the authority shall be in accordance with a comprehensive
33 educational facility plan which must be approved by the state board and the authority. The
34 authority may not expend any moneys for a school major improvement project proposed by the
35 state board or the administrative council of an area vocational educational center unless the state
36 board or an administrative council has submitted a 10-year facilities plan; and

37 (B) The authority shall, before allocating any moneys to the state board or the
38 administrative council of an area vocational educational center for a school improvement project,
39 consider all other funding sources available for the project.

40 (c) An amount that is not more than two percent of the moneys that are determined by the
41 authority to be available for distribution during the current fiscal year from:

42 (1) The issuance of revenue bonds for which moneys in the School Building Debt Service
43 Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

44 (2) Moneys paid into the School Construction Fund pursuant to §18-9D-6 of this code; and

45 (3) Any other moneys received by the authority, except moneys deposited into the School
46 Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to
47 §18-9F-5 of this code, shall be set aside by the authority as an emergency fund to be distributed
48 in accordance with the guidelines adopted by the authority.

49 (d) An amount that is not more than five percent of the moneys that are determined by the
50 authority to be available for distribution during the current fiscal year from:

51 (1) The issuance of revenue bonds for which moneys in the School Building Debt Service
52 Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

53 (2) Moneys paid into the School Construction Fund pursuant to §18-9D-6 of this code; and

54 (3) Any other moneys received by the authority, except moneys deposited into the School
55 Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to
56 §18-9F-5 of this code, may be reserved by the authority for multiuse vocational-technical
57 education facilities projects that may include post-secondary programs as a first priority use. The
58 authority may allocate and expend under this subsection moneys for any purposes authorized in
59 this article on multiuse vocational-technical education facilities projects, including equipment and
60 equipment updates at the facilities, authorized in accordance with §18-9D-16 of this code. If the
61 projects approved under this subsection do not require the full amount of moneys reserved,
62 moneys above the amount required may be allocated and expended in accordance with other
63 provisions of this article. A county board, the state board, an administrative council, or the joint
64 administrative board of a vocational-technical education facility which includes post-secondary
65 programs may propose projects for facilities or equipment, or both, which are under the direct
66 supervision of the respective body: *Provided*, That the authority shall, before allocating any
67 moneys for a project under this subsection, consider all other funding sources available for the
68 project.

69 (e) The remaining moneys determined by the authority to be available for distribution
70 during the then current fiscal year from:

71 (1) The issuance of revenue bonds for which moneys in the School Building Debt Service
72 Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

73 (2) Moneys paid into the School Construction Fund pursuant to §18-9D-6 of this code; and

74 (3) Any other moneys received by the authority, except moneys deposited into the School
75 Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to
76 §18-9F-5 of this code, shall be allocated and expended on the basis of need and efficient use of
77 resources for projects funded in accordance with §18-9D-16 of this code.

78 (f) If a county board proposes to finance a project that is authorized in accordance with
79 §18-9D-16 of this code through a lease with an option to purchase leased premises upon the

80 expiration of the total lease period pursuant to an investment contract, the authority may not
81 allocate moneys to the county board in connection with the project: *Provided*, That the authority
82 may transfer moneys to the state board which, with the authority, shall lend the amount transferred
83 to the county board to be used only for a one-time payment due at the beginning of the lease
84 term, made for the purpose of reducing annual lease payments under the investment contract,
85 subject to the following conditions:

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

91 (2) The loan agreement shall provide for the state board and the authority to defer the
92 payment of principal and interest upon any loan made to the county board during the term of the
93 investment contract, and annual renewals of the investment contract, among the state board, the
94 authority, the county board and a lessor, subject to the following:

95 (A) If a county board which has received a loan from the authority for a one-time payment
96 at the beginning of the lease term does not renew the lease annually until performance of the
97 investment contract in its entirety is completed, the county board is in default and the principal of
98 the loan, together with all unpaid interest accrued to the date of the default, shall, at the option of
99 the authority, in consultation with the state board, become due and payable immediately or subject
100 to renegotiation among the state board, the authority and the county board;

101 (B) If a county board renews the lease annually through the performance of the investment
102 contract in its entirety, the county board shall exercise its option to purchase the leased premises;

103 (C) The failure of the county board to make a scheduled payment pursuant to the
104 investment contract constitutes an event of default under the loan agreement;

105 (D) Upon a default by a county board, the principal of the loan, together with all unpaid
106 interest accrued to the date of the default, shall, at the option of the authority, in consultation with
107 the state board, become due and payable immediately or subject to renegotiation among the state
108 board, the authority and the county board; and

109 (E) If the loan becomes due and payable immediately, the authority, in consultation with
110 the state board, shall use all means available under the loan agreement and law to collect the
111 outstanding principal balance of the loan, together with all unpaid interest accrued to the date of
112 payment of the outstanding principal balance; and

113 (3) The loan agreement shall provide for the state board and the authority to forgive all
114 principal and interest of the loan upon the county board purchasing the leased premises pursuant
115 to the investment contract and performance of the investment contract in its entirety.

116 (g) To encourage county boards to proceed promptly with facilities planning and to prepare
117 for the expenditure of any state moneys derived from the sources described in this section, any
118 county board or other entity to whom moneys are allocated by the authority that fails to expend
119 the money within three years of the allocation shall forfeit the allocation and thereafter is ineligible
120 for further allocations pursuant to this section until it is ready to expend funds in accordance with
121 an approved facilities plan: *Provided*, That the authority may authorize an extension beyond the
122 three-year forfeiture period not to exceed an additional two years. Any amount forfeited shall be
123 added to the total funds available in the School Construction Fund of the authority for future
124 allocation and distribution. Funds may not be distributed for any project under this article unless
125 the responsible entity has a facilities plan approved by the state board and the School Building
126 Authority and is prepared to commence expenditure of the funds during the fiscal year in which
127 the moneys are distributed.

128 (h) The remaining moneys that are determined by the authority to be available for
129 distribution during the then current fiscal year from moneys paid into the School Major
130 Improvement Fund pursuant to §18-9D-6 of this code shall be allocated and distributed on the

131 basis of need and efficient use of resources for projects authorized in accordance with §18-9D-
132 16 of this code, subject to the following:

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

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

139 (3) Any moneys which are unexpended after a two-year period shall be redistributed on
140 the basis of need from the School Major Improvement Fund in that fiscal year.

141 (i) Local matching funds may not be required under the provisions of this section. However,
142 this article does not negate the responsibilities of the county boards to maintain school facilities.
143 Therefore, as a prerequisite for eligibility to receive an allocation of school major improvement
144 funds from the authority, a county board shall provide annual school facility maintenance
145 expenditure data to the authority which shall be jointly reviewed by the authority and the state
146 Department of Education Office of School Facilities and Transportation to assist the authority in
147 its determination of the most meritorious projects to be funded through the School Major
148 Improvement Fund. The state board shall promulgate rules relating to county boards' school
149 facility maintenance budgets, including items which shall be included in these budgets.

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

156 (2) A county board may apply to the authority for funding under this article as part of the
157 county's bond finance plan for a proposed capital improvement bond levy to be submitted to the
158 voters of that county. The county board shall first submit a request for the funding to the executive
159 director of the authority prior to the county board's proposed bond levy election. After initial
160 consultation with the executive director, the county board shall prepare a written outline of the
161 bond finance plan, the capital improvements to be made with levy funds, and the amount and
162 timing of funding requested from the authority. The county board shall then present its request at
163 a meeting of the members of the authority.

164 Grants of financial assistance that have received initial approval under this section are
165 contingent upon passage of the bond levy and final approval by the School Building Authority of
166 the county's bond finance plan. Any materials produced by the county or its county board that
167 refer to the authority shall include a statement of this contingency and terms. Notwithstanding any
168 other provision of this subsection, financial assistance to be provided by the authority may only
169 be used to pay costs of capital improvements and may not be pledged as security for or repayment
170 of any bonds issued by the county board.

171 Upon passage of the bond levy, the county board shall have four years to finalize the
172 project: *Provided*, That the authority may grant an extension to the four years in extenuating
173 circumstances. The provisions of this subsection do not apply to any proposed capital
174 improvement bond levy that is scheduled to be submitted to the voters on or before December
175 31, 2023.

176 (k) Funds in the School Construction Fund shall first be transferred and expended as
177 follows:

178 (1) Any funds deposited in the School Construction Fund shall be expended first in
179 accordance with an appropriation by the Legislature.

180 (2) To the extent that funds are available in the School Construction Fund in excess of
181 that amount appropriated in any fiscal year, the excess funds may be expended for projects
182 authorized in accordance with §18-9D-16 of this code.

183 (l) It is the intent of the Legislature to encourage county boards to explore and consider
184 arrangements with other counties that may facilitate the highest and best use of all available
185 funds, which may result in improved transportation arrangements for students, or which otherwise
186 may create efficiencies for county boards and the students. In order to address the intent of the
187 Legislature contained in this subsection, the authority shall grant preference to those projects
188 which involve multicounty arrangements as the authority shall determine reasonable and proper.

189 (m) County boards shall submit all designs for construction of new school buildings to the
190 School Building Authority for review and approval prior to preparation of final bid documents. A
191 vendor who has been debarred pursuant §5A-3-33b through §5A-3-33f of this code may not bid
192 on or be awarded a contract under this section.

193 (n) The authority may elect to disburse funds for approved construction projects over a
194 period of more than one year subject to the following:

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

197 (2) The authority may not approve the use of more than 50 percent of the revenue
198 available for distribution in any given fiscal year for projects that are to be funded over a period of
199 more than one year; and

200 (3) In order to encourage local participation in funding school construction projects, the
201 authority may set aside limited funding, not to exceed \$500,000, in reserve for one additional year
202 to provide a county the opportunity to complete financial planning for a project prior to the
203 allocation of construction funds. Any funding shall be on a reserve basis and converted to a part
204 of the construction grant only after all project budget funds have been secured and all county
205 commitments have been fulfilled. Failure of the county to solidify the project budget and meet its

206 obligations to the state within 18 months of the date the funding is set aside by the authority will
207 result in expiration of the reserve and the funds shall be reallocated by the authority in the
208 succeeding funding cycle.

§18-9D-19. Comprehensive high schools.

1 (a) When planning the construction of a high school which has been approved by the
2 authority and which meets the required authority efficiencies, the authority shall provide funding
3 for comprehensive vocational facilities to be located, when feasible, on the same site as the high
4 school and may, in cooperation with the Higher Education Policy Commission, established in
5 §18B-1B-1 of this code, provide funding for facilities for community and technical college
6 education. When building in conjunction with the Higher Education Policy Commission, an
7 educational specification must be developed for the proposed new facility by the appropriate
8 institutional governing board as defined in §18B-1-2 of this code. The county board is the fiscal
9 agent for construction. All planning, design, bidding, and construction must be completed with
10 authority guidelines and under the supervision of the authority.

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

15 (c) Upon application of a county board to construct comprehensive vocational facilities at
16 an existing high school, the authority will provide technical assistance to the county in developing
17 a plan for construction of the comprehensive vocational facility. The facility may, in cooperation
18 with the Higher Education Policy Commission in accordance with the provisions of subsection (a)
19 of this section, include facilities for community and technical college education. Upon
20 development of the plan, the authority shall consider funding based on the following criteria:

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

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

24 (3) The ability of the county board to provide local funds for the construction of new
25 comprehensive vocational facilities;

26 (4) The size of the existing high schools and the demand for vocational technical courses;

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

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

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

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

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

44 (2) Submits the plan to the authority for review and obtains the authority's approval.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Steve Harris

.....
Clerk of the House of Delegates

Jaime

.....
Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

Ray Haskew

.....
Speaker of the House of Delegates

C. P. B.

.....
President of the Senate

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2023 MAR 29 P 1:09

FILED

The within is approved this the 29th
Day of March 2023.

James Justice

.....
Governor

PRESENTED TO THE GOVERNOR

MAR 21 2023

Time 3:10 pm