

**WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**Senate Bill 523**

BY SENATORS TARR, CAPUTO, AND MARONEY

[Passed March 10, 2023; in effect 90 days from  
passage (June 8, 2023)]

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

2023 MAR 29 P 5:04

FILED

SB523

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1 AN ACT to amend and reenact §31-15-23a of the Code of West Virginia, 1931, as amended,  
2 relating to funding for infrastructure and economic development; clarifying the purposes  
3 and use of the Economic Development Project Fund; providing that funds may be used  
4 solely for loans; providing for repayment of loans; providing a maximum of amount of the  
5 funds that may be used for financing high impact development projects; allowing for  
6 traditional loans; setting a maximum amount of funding for traditional loans; allowing for  
7 retention loans; setting a maximum amount of funding for retention loans; and providing  
8 for interest to be retained in the loan programs.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.**

**§31-15-23a. Economic Development Project Fund.**

1 (a) For the purposes of this section, the term "high impact development project" means a  
2 project meeting the following criteria, according to a resolution adopted by the authority:

3 (1) The Governor has requested, in writing, that the project be approved for financing by  
4 the authority in an amount of \$50 million or greater;

5 (2) The industrial development agency or enterprise undertaking the project will privately  
6 invest an amount of \$50 million or greater in the project; and

7 (3) The project meets or exceeds the loan per job ratio criteria for high-impact development  
8 projects that may be established, in consultation with the Secretary of the Department of  
9 Economic Development, by the board of directors.

10 (b) There is hereby created a special revenue fund in the State Treasury known as the  
11 Economic Development Project Fund. The fund shall consist of all moneys appropriated to the  
12 authority during the regular session of the Legislature, 2022, from available revenue surplus  
13 funds, transfers from the Industrial Development Loans fund, gifts, grants, contributions, any  
14 earnings or interest accruing to said fund, and any other moneys appropriated to said fund by the

15 Legislature. The authority may invest and reinvest moneys in the fund with the West Virginia  
16 Investment Management Board or the Board of Treasury Investments.

17 (c) The authority may transfer funds in the Industrial Development Loans fund to the  
18 Economic Development Project Fund created by this section and any loan repayments or other  
19 amounts that would otherwise have been paid into the Industrial Development Loans fund may  
20 be paid into the Economic Development Project Fund created by this section.

21 (d) The authority may use moneys in the Economic Development Project Fund to offer  
22 incentives for business formation or expansion and provide assistance with site development or  
23 other concerns to industrial development agencies or enterprises according to the requirements  
24 of this article as set forth in this subsection.

25 (1) *High impact development projects.* — In addition to any powers granted to the authority  
26 under any other section of this code, the authority may finance any high impact development  
27 project under this section by offering incentives for business formation or expansion to industrial  
28 development agencies or enterprises in this state in the form of loans, grants, or other offers of  
29 financial assistance or aid upon such terms as the Governor may request and the authority shall  
30 deem appropriate: *Provided*, That money available to fund such high impact development projects  
31 may not exceed \$300 million dollars annually, unless otherwise appropriated by the Legislature  
32 or increased by interest payments received pursuant to this subsection. Funds which are paid  
33 back to the authority as principal pursuant to this subsection may be utilized and relent by the  
34 authority for the same purpose. Any interest accruing shall be retained and made available for  
35 high impact projects as set forth in this subsection and shall not revert to the General Revenue  
36 Fund.

37 (2) *Traditional loans.* — The authority may finance any economic development project  
38 under this section by offering incentives for business formation or expansion to industrial  
39 development agencies or enterprises in this state in the form of loans, which shall be repaid to  
40 provide financing for subsequent borrowers: *Provided*, That money available to fund such

41 traditional loans may not exceed \$250 million dollars annually, on a rolling basis, unless otherwise  
42 appropriated by the Legislature or increased by interest payments received pursuant to this  
43 subsection. Funds which are paid back to the authority as principal pursuant to this subsection  
44 may be utilized and relent by the authority for the same purpose. Any interest accruing shall be  
45 retained and made available for traditional loans as set forth in this subsection and shall not revert  
46 to the General Revenue Fund.

47 (3) *Business retention projects.* — The authority may finance any economic development  
48 project under this section by offering incentives for business development and expansion to  
49 industrial development agencies or enterprises already existing and operating in the State of West  
50 Virginia in the form of loans, which shall be repaid to provide financing for subsequent borrowers:  
51 *Provided,* That money available to fund such business retention loans may not exceed \$50 million  
52 dollars annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased  
53 by interest payments received pursuant to this subsection. Funds which are paid back to the  
54 authority as principal pursuant to this subsection may be utilized and relent by the authority for  
55 the same purpose. Any interest accruing shall be retained and made available for business  
56 retention projects as set forth in this subsection and shall not revert to the General Revenue Fund.

57 (e) The authority shall keep itemized records of all fund transactions and agreements  
58 entered into in furtherance of the Economic Development Project Fund expenditures. In  
59 administering the fund, the authority shall adopt appropriate accounting practices and internal  
60 controls, including, but not limited to, strict compliance with the requirements of §5A-8-9 of this  
61 code. Fund transactions shall be subject to an annual audit by an independent firm of certified  
62 public accountants.

63 (f) The authority shall prepare and submit to the Joint Committee on Government and  
64 Finance and the Governor an annual report addressing the status of each project with outstanding  
65 financing issued pursuant to this section. The report shall, at a minimum, provide project-specific  
66 data addressing:

67 (1) The outstanding amount of authority financing for each project;

68 (2) The total amount of private investment in each project;

69 (3) The number of jobs created by each project since the project's inception; and

70 (4) The number of jobs maintained by each project.

71 (g) Except for the records and audit required under subsection (e) of this section and the

72 annual reports required under subsection (f) of this section, any documentary material, data, or

73 other writing made or received by the authority relating to high impact development projects under

74 this section, shall be exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any agreement

75 or resolution entered into or signed by the authority which obligates public funds for any high-

76 impact development project shall be subject to inspection and copying pursuant to §29B-1-1 *et*

77 *seq.* of this code as of the date the agreement or resolution is entered into, signed, or otherwise

78 made public.

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

  
Clerk of the Senate

  
Clerk of the House of Delegates

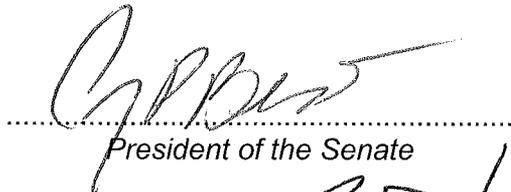
OFFICE OF WEST VIRGINIA  
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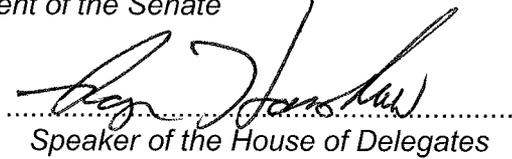
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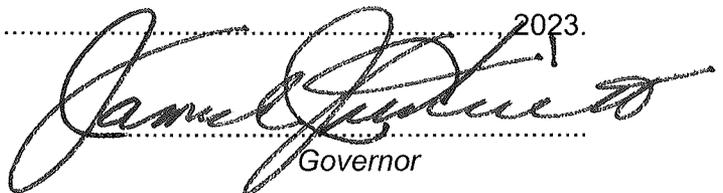
Originated in the Senate.

In effect 90 days from passage.

  
President of the Senate

  
Speaker of the House of Delegates

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

  
Governor

PRESENTED TO THE GOVERNOR

MAR 16 2023

Time 11:03am