

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]

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 for
8 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 funds,
13 transfers from the Industrial Development Loans fund, gifts, grants, contributions, any earnings or
14 interest accruing to said fund, and any other moneys appropriated to said fund by the Legislature.

15 The authority may invest and reinvest moneys in the fund with the West Virginia Investment

16 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 be
20 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 of
24 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 or
32 increased by interest payments received pursuant to this subsection. Funds which are paid back
33 to the authority as principal pursuant to this subsection may be utilized and relent by the authority
34 for the same purpose. Any interest accruing shall be retained and made available for high impact
35 projects as set forth in this subsection and shall not revert to the General Revenue Fund.

36 (2) *Traditional loans.* — The authority may finance any economic development project
37 under this section by offering incentives for business formation or expansion to industrial
38 development agencies or enterprises in this state in the form of loans, which shall be repaid to
39 provide financing for subsequent borrowers: *Provided*, That money available to fund such
40 traditional loans may not exceed \$250 million dollars annually, on a rolling basis, unless otherwise
41 appropriated by the Legislature or increased by interest payments received pursuant to this

42 subsection. Funds which are paid back to the authority as principal pursuant to this subsection
43 may be utilized and relented by the authority for the same purpose. Any interest accruing shall be
44 retained and made available for traditional loans as set forth in this subsection and shall not revert
45 to the General Revenue Fund.

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

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

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

- 66 (1) The outstanding amount of authority financing for each project;
- 67 (2) The total amount of private investment in each project;

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

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

70 (g) Except for the records and audit required under subsection (e) of this section and the
71 annual reports required under subsection (f) of this section, any documentary material, data, or
72 other writing made or received by the authority relating to high impact development projects under
73 this section, shall be exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any agreement or
74 resolution entered into or signed by the authority which obligates public funds for any high-impact
75 development project shall be subject to inspection and copying pursuant to §29B-1-1 *et seq.* of this
76 code as of the date the agreement or resolution is entered into, signed, or otherwise made public.