

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 523**

BY SENATORS TARR, CAPUTO, AND MARONEY

[Originating in the Committee on Finance; reported on

February 17, 2023]



1 A BILL 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) In addition to any powers granted to the authority under any other section of this code,~~  
22 ~~the authority may finance any high impact development project under this section by offering~~  
23 ~~incentives for business formation or expansion to industrial development agencies or enterprises~~  
24 ~~in this state in the form of loans, grants, or other offers of financial assistance or aid upon such~~  
25 ~~terms as the Governor may request and the authority shall deem appropriate.~~

26 ~~(e) The authority may use moneys in the Economic Development Project Fund to offer~~  
27 ~~incentives for business formation or expansion and provide assistance with site development or~~  
28 ~~other concerns to industrial development agencies or enterprises according to the requirements~~  
29 ~~of this article: *Provided*, That a minimum maximum of \$200 million in the fund may only be used~~  
30 ~~to finance high impact development projects.~~

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

35 (1) *High impact development projects.* — In addition to any powers granted to the authority  
36 under any other section of this code, the authority may finance any high impact development  
37 project 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, grants, or other offers of  
39 financial assistance or aid upon such terms as the Governor may request and the authority shall  
40 deem appropriate: *Provided*, That money available to fund such high impact development projects  
41 may not exceed \$300 million dollars annually, unless otherwise appropriated by the Legislature

42 or increased by interest payments received pursuant to this subsection. Funds which are paid  
43 back to the authority as principal pursuant to this subsection may be utilized and relented by the  
44 authority for the same purpose. Any interest accruing shall be retained and made available for  
45 high impact projects as set forth in this subsection and shall not revert to the general revenue  
46 fund.

47 (2) *Traditional loans.* — The authority may finance any economic development project  
48 under this section by offering incentives for business formation or expansion to industrial  
49 development agencies or enterprises in this state in the form of loans, which shall be repaid to  
50 provide financing for subsequent borrowers: *Provided*, That money available to fund such  
51 traditional loans may not exceed \$250 million dollars annually, on a rolling basis, unless otherwise  
52 appropriated by the Legislature or increased by interest payments received pursuant to this  
53 subsection. Funds which are paid back to the authority as principal pursuant to this subsection  
54 may be utilized and relented by the authority for the same purpose. Any interest accruing shall be  
55 retained and made available for traditional loans as set forth in this subsection and shall not revert  
56 to the general revenue fund.

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

67 (f) (e) The authority shall keep itemized records of all fund transactions and agreements

68 entered into in furtherance of the Economic Development Project Fund expenditures. In  
69 administering the fund, the authority shall adopt appropriate accounting practices and internal  
70 controls, including, but not limited to, strict compliance with the requirements of §5A-8-9 of this  
71 code. Fund transactions shall be subject to an annual audit by an independent firm of certified  
72 public accountants.

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

- 77 (1) The outstanding amount of authority financing for each project;
- 78 (2) The total amount of private investment in each project;
- 79 (3) The number of jobs created by each project since the project's inception; and
- 80 (4) The number of jobs maintained by each project.

81 ~~(h)~~ (g) Except for the records and audit required under subsection (e) of this section and  
82 the annual reports required under subsection (f) of this section, any documentary material, data,  
83 or other writing made or received by the authority relating to high impact development projects  
84 under this section, shall be exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any  
85 agreement or resolution entered into or signed by the authority which obligates public funds for  
86 any high-impact development project shall be subject to inspection and copying pursuant to §29B-  
87 1-1 *et seq.* of this code as of the date the agreement or resolution is entered into, signed, or  
88 otherwise made public.