

Senate Bill No. 584

(By Senators M. Hall, Walters, Blair, Boso,
Carmichael, Facemire, Laird, Mullins,
Plymale, Prezioso, Stollings, Sypolt and Takubo)

[Originating in the Committee on Finance;
reported March 2, 2015.]

A BILL to amend and reenact §18-2-16 and §18-2-16a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-5, §18-2L-6, §18-2L-7, §18-2L-8, §18-2L-9, §18-2L-10 and §18-2L-11; and to amend and reenact §18-9D-15 of said code, all relating to the transfer of the Cedar Lakes Camp and Conference Center from the State Board of Education to a private, nonstock, not-for-profit corporation established under the laws of this state; and providing available funding for said corporation from the School Building Authority for a period of three years after the transfer.

Be it enacted by the Legislature that:

That §18-2-16 and §18-2-16a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new article, designated §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-5, §18-2L-6, §18-2L-7, §18-2L-8, §18-2L-9, §18-2L-10 and §18-2L-11; and that §18-9D-15 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-16. Establishment and operation of state camp and conference center; rental thereof;

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expenditures; gifts and donations; county court may erect and equip buildings.

1 (a) For the purpose of developing competent leadership, developing character, training for
2 useful citizenship, fostering patriotism and of providing and encouraging the development of
3 organized recreational activities for Future Farmers of America and Future Homemakers of America
4 members, and other youth and adult groups, a camp and conference center is hereby established.

5 The West Virginia Board of Education is hereby authorized to secure a site for the camp and
6 conference center at some suitable place and provide the necessary buildings and equipment therefor.

7 The camp and conference center shall be operated by the division of vocational education of
8 the West Virginia Board of Education. The camp and conference center may be rented for
9 educational purposes only and the rent received therefor shall be deposited in the State Treasury and
10 paid out on requisition of the division of vocational education of the West Virginia Board of
11 Education for the maintenance and operation of the camp and conference center.

12 The minimum salary requirements in sections eight-a and eighteen, article four, chapter
13 eighteen-a of this code do not apply to service employees who are initially employed on or after July
14 1, 2014 by the division of vocational education to provide services at the camp and conference
15 center.

16 Any appropriations now or hereafter made by the Legislature to carry out the provisions and
17 purposes of this section shall be expended through the West Virginia Board of Education.

18 The West Virginia Board of Education may receive and use such gifts and donations of
19 money, land, buildings, materials, equipment, supplies and labor, either from public or private
20 sources, as may be offered unconditionally or under such conditions as in the judgment of the West

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1 Virginia Board of Education are proper and consistent with the provisions of this section.

2 All the money received as gifts and donations by the West Virginia Board of Education shall
3 be deposited in the State Treasury to be used by the Board of Education in establishing and
4 maintaining the aforesaid camp and conference center. A report of all gifts and donations offered and
5 accepted, together with the names of the donors and the amounts contributed by each and all
6 disbursements therefrom shall be submitted annually to the Governor of the state by the West
7 Virginia Board of Education.

8 The county commission of any county may appropriate and expend money from the general
9 county fund, or from any special fund available for such purpose, to erect and equip a cottage or
10 county building on the camp and conference center property.

11 (b) The provisions of this section shall expire upon the transfer of Cedar Lakes Camp and
12 Conference Center to a private, nonstock, not-for-profit corporation in accordance with the
13 provisions of article two-1 of this chapter.

14 **§18-2-16a. Construction of buildings and recreational facilities at state camp and conference**
15 **center; charges for use; financing by revenue bonds or notes permissible; trustee for**
16 **holders of bonds or notes; contents of trust agreement.**

17 (a) The West Virginia Board of Education is hereby authorized to construct, erect, acquire
18 and improve dining halls, cottages and other buildings or recreational facilities it considers necessary
19 and beneficial for the proper conduct and management of the camp and conference center and may
20 charge such rates, fees, rentals and other charges for the use of the buildings and recreational
21 facilities as it determines necessary and advisable.

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1 The construction, erection, acquisition and improvement of dining halls, cottages and other
2 buildings or recreational facilities may be financed by the issuance of revenue bonds or notes of the
3 state of West Virginia payable solely from the revenues derived from the operation of the camp and
4 conference center notwithstanding any of the provisions of section sixteen of this article.

5 The revenue bonds or notes shall be authorized by resolution of the West Virginia Board of
6 Education, hereinafter referred to in this section as the “board”, and the revenue bonds or notes shall
7 not constitute a debt of the state of West Virginia within the meaning of any of its statutes or
8 constitution.

9 The principal of and interest on the bonds or notes shall be payable solely from the special
10 fund provided for in this section for such payment. The board shall pledge the moneys in the special
11 fund, except that part of the proceeds of sale of any bonds or notes to be used to pay the cost of a
12 project, for the payment of the principal of and interest on bonds or notes issued pursuant to this
13 section. The pledge shall apply equally and ratably to separate series of bonds or notes or upon such
14 priorities as the board determines. The bonds or notes shall be authorized by resolution of the board
15 which shall recite an estimate of the cost of the project, and shall provide for the issuance of bonds
16 or notes in an amount sufficient, when sold as provided in this section, to produce such cost, less the
17 amount of any funds, grant or grants, gift or gifts, contribution or contributions received, or in the
18 opinion of the board expected to be received from any source. The acceptance by the board of any
19 and all funds, grants, gifts and contributions, whether in money or in land, labor or materials, is
20 hereby expressly authorized. All bonds or notes shall have and are hereby declared to have all the
21 qualities of negotiable instruments. The bonds or notes shall bear interest at not more than twelve

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1 percent per annum, payable semiannually, and shall mature in not more than forty years from their
2 date or dates of issuance, and may be made redeemable at the option of the board, at such price and
3 under such terms and conditions, as the board may fix prior to the issuance of the bonds or notes.
4 The board shall determine the form of the bonds or notes, including coupons, if any, to be attached
5 thereto to evidence the right of interest payments, which bonds or notes shall be signed by the
6 chairman and secretary of the board, under the great seal of the state, attested by the Secretary of
7 State, and the coupons, if any, attached thereto shall bear the facsimile signature of the chairman of
8 the board. In case any of the officers whose signatures appear on the bonds or notes or coupons
9 issued as authorized under this section shall cease to be such officers before the delivery of the bonds
10 or notes, the signatures are nevertheless valid and sufficient for all purposes the same as if they had
11 remained in office until such delivery. The board shall fix the denominations of the bonds or notes,
12 the principal and interest of which shall be payable at the office of the Treasurer of the state of West
13 Virginia at the state capitol, or at the option of the holder, at some bank or trust company within or
14 without the state of West Virginia to be named in the bonds or notes, in such medium as may be
15 determined by the board. The bonds or notes and interest thereon are exempt from taxation by the
16 state of West Virginia, or any county or municipality in the state. The board may provide for the
17 registration of the bonds or notes in the name of the owners as to principal alone, and as to both
18 principal and interest under such terms and conditions as the board may determine, and shall sell the
19 bonds or notes in such manner as it may determine to be for the best interest of the state and the
20 board, taking into consideration the financial responsibility of the purchaser, and the terms and
21 conditions of the purchase, and especially the availability of the proceeds of the bonds or notes when

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1 required for payment of the cost of the project, the sale to be made at a price not lower than a price
2 which, computed upon standard tables of bond values, will show a net return of not more than
3 thirteen percent per annum to the purchaser upon the amount paid therefor. The proceeds of the
4 bonds or notes shall be used solely for the payment of the cost of the project for which bonds or
5 notes were issued, and shall be deposited and checked out in the same manner as provided by article
6 six, chapter five of this code, and under such further restrictions, if any, as the board may provide.
7 If the proceeds of bonds or notes issued for a project or a specific group of projects exceeds the cost
8 of the project or projects, the surplus shall be paid into the fund provided for in this section for
9 payment of the principal and interest of the bonds or notes. The fund may be used for the purchase
10 of any of the outstanding bonds or notes payable from the fund at the market price, but at not
11 exceeding the price, if any, at which the bonds or notes are in the same year redeemable. All bonds
12 or notes redeemed or purchased shall forthwith be canceled and shall not again be issued. Prior to
13 the preparation of definitive bonds or notes, the board may, under like restrictions, issue temporary
14 bonds or notes with or without coupons, exchangeable for definitive bonds or notes upon the
15 issuance of the latter.

16 Notwithstanding the provisions of sections nine and ten, article six, chapter twelve of this
17 code, revenue bonds or notes issued under the authority granted in this section are eligible as
18 investments for the Workers' Compensation Fund, Teachers Retirement Fund, Division of Public
19 Safety Death, Disability and Retirement Fund, West Virginia Public Employees Retirement System
20 and as security for the deposit of all public funds. The revenue bonds or notes may be issued without
21 any other proceedings or the happening of any other conditions or things than those proceedings,

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1 conditions and things which are specified and required by this article, or by the constitution of the
2 state. For all projects authorized under the provisions of this section, the aggregate amount of all
3 issues of bonds or notes outstanding at one time shall not exceed \$2.5 million including the
4 renegotiation, reissuance or refinancing of any bonds or notes.

5 Notwithstanding anything in this section to the contrary, the board is authorized to issue
6 bonds or notes or otherwise finance or refinance the projects in this section, including the costs of
7 issuance and sale of the bonds or notes or financing, all necessary financial and legal expenses and
8 creation of debt service reserve funds in an amount not to exceed \$2.5 million.

9 The board may enter into an agreement or agreements with any trust company, or with any
10 bank having the powers of a trust company, whether within or outside of the state, as trustee for the
11 holders of bonds or notes issued under this section, setting forth in the agreement the duties of the
12 state and of the board in respect of the acquisition, construction, improvement, maintenance,
13 operation, repair and insurance of the project, the conservation and application of all moneys, the
14 insurance of moneys on hand or on deposit, and the rights and remedies of the trustee and the holders
15 of the bonds or notes, as may be agreed upon with the original purchasers of the bonds or notes. The
16 agreement or agreements shall include provisions restricting the individual right of action of
17 bondholders or noteholders as is customary in trust agreements respecting bonds or notes and
18 debentures of corporations, protecting and enforcing the rights and remedies of the trustee and the
19 bondholders or noteholders, and provide for approval by the original purchasers of the bonds or notes
20 of the appointment of consulting architects, and of the security given by those who contract to
21 construct the project, and by any bank or trust company in which the proceeds of bonds or notes or

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1 rentals shall be deposited, and for approval by the consulting architects of all contracts for
2 construction. All expenses incurred in carrying out the agreement may be treated as a part of the cost
3 of maintenance, operation and repairs of the project.

4 (b) The bonding authority granted under subsection (a) of this section shall expire upon the
5 transfer of Cedar Lakes Camp and Conference Center to a private, nonstock, not-for-profit
6 corporation in accordance with the provisions of article two-1 of this chapter.

7 **ARTICLE 2L. TRANSFER OF CEDAR LAKES CAMP AND CONFERENCE CENTER.**

8 **§18-2L-1. Definitions.**

9 As used in this article:

10 (1) “Board” means the West Virginia Board of Education.

11 (2) “Cedar Lakes” means the camp and conference center established pursuant to section
12 sixteen, article two of this chapter.

13 (3) “Cedar Lakes employee” means any employee of the board whose job responsibilities are
14 primarily at or concern Cedar Lakes.

15 (4) “Department” means the Department of Education.

16 (5) “Foundation” means a private, nonstock, not-for-profit corporation established under the
17 laws of this state to which the board will transfer Cedar Lakes and which otherwise meets the
18 requirements of section four of this article.

19 (6) “Transfer agreement” means the agreement between the board and the foundation that
20 transfer ownership, operation and control of Cedar Lakes from the board to the foundation.

21 (7) “Transfer date” means either July 1, 2016, or the date by which the board has secured or

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1 performed all approvals, authorizations and any other actions necessary to transfer Cedar Lakes from
2 the board to the foundation.

3 (8) “Transition fund” means the Cedar Lakes Transition Fund established pursuant to section
4 five of this article.

5 **§18-2L-2. Purpose and legislative findings.**

6 (a) *Legislative intent.* – It is the intent of the Legislature in enacting this article to transfer
7 ownership, operation and control of Cedar Lakes to private, nonstock, not-for-profit corporation, in
8 order for the camp and conference center to continue independently and to best fulfill its purpose of
9 developing competent leadership, developing character, training for useful citizenship, fostering
10 patriotism and of providing and encouraging the development of organized recreational activities
11 for Future Farmers of American and Future Homemakers of America members, and other youth and
12 adult groups.

13 (b) *Findings.* – The Legislature finds and declares that:

14 (1) Pursuant to section sixteen, article two of this chapter, the Legislature authorized the
15 board to establish Cedar Lakes for the purpose of developing competent leadership, developing
16 character, training for useful citizenship, fostering patriotism and of providing and encouraging the
17 development of organized recreational activities for Future Farmers of American and Future
18 Homemakers of America members, and other youth and adult groups.

19 (2) Over the decades, Cedar Lakes has fulfilled this purpose and has become an integral part
20 of the local economy and the Jackson County community;

21 (3) The Legislature recognizes the economic and social value of Cedar Lakes and that its

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1 continued viability depends on it becoming an independent, self-sustaining entity; and

2 (4) A private, not-for-profit structure is the best means of assuring prudent financial
3 management and, in turn, the fulfilling of the purposes of Cedar Lakes and serving the local
4 economy, the Jackson County community and the state.

5 **§18-2L-3. Board authorized to contract with foundation.**

6 The board is hereby authorized to enter into the transfer agreement and all other contractual
7 agreements necessary to transfer Cedar Lakes to the foundation, as consistent with this article.

8 **§18-2L-4. Description of foundation.**

9 The foundation to which the board transfers Cedar Lakes upon the transfer date shall be a
10 nonstock, not-for-profit corporation established pursuant to the provisions of chapter thirty-one-e
11 of this code, known as the West Virginia Nonprofit Corporation Act.

12 **§18-2L-5. Establishment of the Cedar Lakes Transition Fund.**

13 Effective upon the date upon which this enactment is made effective by the Legislature, there
14 is hereby established in the State Treasury a Cedar Lakes Transition Fund over which the state
15 treasurer is custodian. Moneys transferred or otherwise payable to the transition fund shall be
16 deposited in the State Treasury to the credit of the transition fund. Disbursements shall be made from
17 the transition fund pursuant to and for the purposes provided in the article.

18 **§18-2L-6. Agreement; required provisions.**

19 Notwithstanding section ten, article three, chapter twelve of this code, or any other provision
20 of this code to the contrary, the board is hereby authorized to enter into a transfer agreement with the
21 foundation, which shall contain the following provisions, subject to further specification as shall be

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1 mutually agreed upon by the board and the foundation:

2 (a) On the transfer date, the board shall disburse and pay to the foundation the sums on
3 deposit in the accounts labeled Fund 3960, State Board of Education State FFA-FHA Camp and
4 Conference Center as reflected on the official financial ledgers maintained by the state;

5 (b) On the transfer date, the board shall transfer and deed to the foundation in fee simple
6 absolute all real estate at Cedar Lakes owned by the board, and this transfer of real estate shall
7 comply and be consistent with the provisions of section three, article five, chapter one of this code;

8 (c) The board shall transfer and assign contractual rights and contractual duties specifically
9 relating to Cedar Lakes to the foundation: *Provided*, That contractual rights and contractual duties
10 that are not specifically related to Cedar Lakes remain with the board;

11 (d) Effective on the transfer date, the foundation shall assume responsibility for and shall
12 defend, indemnify and hold harmless the board, the department, and the state with respect to all
13 liabilities and duties of Cedar Lakes and all claims for breach of contract resulting from the
14 foundation's action or failure to act after the transfer date; and

15 (e) On and after the transfer date, the foundation shall own, operate and control Cedar Lakes
16 and all of its property and assets in fee simple absolute.

17 **§18-2L-7. Exemption from certain requirements.**

18 In order, as expeditiously as possible, to transfer Cedar Lakes from the board to the
19 foundation, the transactions provided by this article shall be exempt from the bidding and public sale
20 requirements, from the approval of contractual agreements by the Department of Administration or
21 the Attorney General, and from the requirements of chapter five-a of this code. Moreover, the board

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1 shall also be exempt from these provisions with respect to its operations of Cedar Lakes prior to and
2 up to the transfer date. The board, with respect to its operations of Cedar Lakes prior to and up to
3 the transfer date, shall not be required to use the Enterprise Resource Planning System or other
4 related rules established or authorized in article six-d, chapter twelve of this code.

5 **§18-2L-8. Certain personnel provisions concerning Cedar Lakes employees.**

6 (a) Immediately upon the transfer of Cedar Lakes from the board to the foundation on the
7 transfer date, all Cedar Lakes employees shall become at-will employees of the foundation.

8 (b) Any person who:

9 (1) was a Cedar Lakes employee as of January 1, 2016;

10 (2) was a Cedar Lakes employee who become an employee of the foundation upon the
11 transfer date; and

12 (3) Is laid off by the foundation on or before July 1, 2016, is entitled to be placed on an
13 appropriate reemployment list maintained by the Division of Personnel and to be allowed a
14 preference on that list. The Division of Personnel shall maintain such an employee on the
15 reemployment list indefinitely, or until the employee has declined three offers of employment at a
16 paygrade substantially similar to that of his or her position as a Cedar Lakes employee upon
17 termination from employment, or until he or she is reemployed by the executive branch of state
18 government, whichever occurs earlier.

19 (c) The foundation shall enter into an agreement with the Division of Personnel for the
20 provision of services and training to an employee of the foundation who is laid off on or before July
21 1, 2016, and requires additional training to obtain other gainful employment. The Division of

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1 Personnel shall administer the program. The fees required for those services and training shall be in
2 an amount established by the Division of Personnel and the foundation, and shall be paid out of the
3 transition fund.

4 (d) Upon the transition date, the department shall pay the full actuarial cost to purchase years
5 of credit for the Cedar Lakes employees who retire upon the transfer date or become employees of
6 the foundation upon the transfer date from the available balance in the transition fund. The years of
7 credit purchased for such Cedar Lakes employees shall be for the State Teachers Retirement System
8 provided for in article seven-a of this chapter, the Teachers' Defined Contribution Retirement
9 System provided for in article seven-b of this chapter, or the State Teachers Retirement System
10 provided for in article seven-d of this chapter, whichever may be applicable. The amount of credit
11 to be purchased for each employee based on years of service with the board shall be determined by
12 the foundation. If upon said purchase, an employee does not vest in the public employee retirement
13 plan, the employee can receive his or her contribution from the retirement plan and an amount equal
14 to the employer's contribution to be payable out of the transition fund.

15 (e) The Public Employees' Retirement System shall take such action as is necessary to carry
16 out the provisions of subsection (d) of this section.

17 (f) Any Cedar Lakes employee as of the transfer date and who becomes an employee of the
18 foundation shall have the following options related to their accrued sick leave: Freeze said accrued
19 sick leave at the balance that exists as of the transfer date and use said sick leave at the time of
20 retirement to purchase insurance through the public employee insurance agency with any related
21 charges paid from the transition fund; or have his or her accrued sick leave irrevocably surrendered

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1 in exchange for one hour of pay for each hour of accrued sick leave surrendered to be payable from
2 the transition fund.

3 (g) The Division of Personnel shall cooperate fully by assisting in all activities necessary to
4 expedite all changes for the board, Cedar Lakes and employees, including, but not limited to, all of
5 the above subsections.

6 **§18-2L-9. No waiver of sovereign immunity.**

7 Nothing contained in this article shall be deemed or construed to waive or abrogate in any
8 way the sovereign immunity of the state or to deprive the board, department or any officer or
9 employee thereof of sovereign immunity.

10 **§18-2L-10. Not obligation of the state.**

11 The obligations of the foundation shall not constitute debts or obligations of the board,
12 department or the state.

13 **§18-2L-11. Sections and provisions severable.**

14 The sections of this article, and the provisions and parts of said sections, are severable and
15 it is the intention to confer the whole or any part of the powers provided for in this article and, if any
16 of said sections, or the provisions or parts of any said sections, or the application thereof to any
17 person or circumstance, are for any reason held unconstitutional or invalid, it is the intention that the
18 remaining sections of this article, and the remaining provisions or parts of any said sections, shall
19 remain in full force and effect.

20 **ARTICLE 9D. SCHOOL BUILDING AUTHORITY.**

21 **§18-9D-15. Legislative intent; allocation of money among categories of projects of projects;**

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1 **lease-purchase options; limitation on time period for expenditure of project allocation;**
2 **county maintenance budget requirements; project disbursements over period of years;**
3 **preference for multicounty arrangements; submission of project designs; set-aside to**
4 **encourage local participation.**

5 (a) It is the intent of the Legislature to empower the School Building Authority to facilitate
6 and provide state funds and to administer all federal funds provided for the construction and major
7 improvement of school facilities so as to meet the educational needs of the people of this state in an
8 efficient and economical manner. The authority shall make funding determinations in accordance
9 with the provisions of this article and shall assess existing school facilities and each facility's school
10 major improvement plan in relation to the needs of the individual student, the general school
11 population, the communities served by the facilities and facility needs statewide.

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

14 (1) Moneys paid into the School Building Capital Improvements Fund pursuant to section
15 ten, article nine-a of this chapter;

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

18 (3) Moneys paid into the School Construction Fund pursuant to section six of this article; and

19 (4) Any other moneys received by the authority, except moneys paid into the School Major
20 Improvement Fund pursuant to section six of this article and moneys deposited into the School
21 Access Safety Fund pursuant to section five, article nine-f of this chapter may be allocated and may

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1 be expended by the authority for projects authorized in accordance with the provisions of section
2 sixteen of this article that service the educational community statewide or, upon application by the
3 state board, for educational programs that are under the jurisdiction of the state board. In addition,
4 upon application by the state board or the administrative council of an area vocational educational
5 center established pursuant to article two-b of this chapter, the authority may allocate and expend
6 under this subsection moneys for school major improvement projects authorized in accordance with
7 the provisions of section sixteen of this article proposed by the state board or an administrative
8 council for school facilities under the direct supervision of the state board or an administrative
9 council, respectively. Upon joint application by the state board and the private, nonstock, not-for-
10 profit corporation created in accordance with the provisions of article two-1 of this chapter, the
11 authority may continue to allocate and expend under this subsection moneys for projects at the Cedar
12 Lakes Camp and Conference Center following the transfer of the Cedar Lakes Camp and Conference
13 Center from the state board to the private, nonstock, not-for-profit corporation as provided for in
14 article two-1 of this chapter: *Provided, That eligibility of the Cedar Lakes Camp and Conference*
15 *Center for moneys under this subsection shall expire on July 1, 2018.* Furthermore, upon application
16 by a county board, the authority may allocate and expend under this subsection moneys for school
17 major improvement projects for vocational programs at comprehensive high schools, vocational
18 programs at comprehensive middle schools, vocational schools cooperating with community and
19 technical college programs, or any combination of the three. Each county board is encouraged to
20 cooperate with community and technical colleges in the use of existing or development of new
21 vocational technical facilities. All projects eligible for funds from this subsection shall be submitted

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1 directly to the authority which shall be solely responsible for the project's evaluation, subject to the
2 following:

3 (A) The authority may not expend any moneys for a school major improvement project
4 proposed by the state board or the administrative council of an area vocational educational center
5 unless the state board or an administrative council has submitted a ten-year facilities plan; and

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

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

11 (1) Moneys paid into the School Building Capital Improvements Fund pursuant to section
12 ten, article nine-a of this chapter;

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

15 (3) Moneys paid into the School Construction Fund pursuant to section six of this article; and

16 (4) Any other moneys received by the authority, except moneys deposited into the School
17 Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to
18 section five, article nine-f of this chapter, shall be set aside by the authority as an emergency fund
19 to be distributed in accordance with the guidelines adopted by the authority.

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

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1 (1) Moneys paid into the School Building Capital Improvements Fund pursuant to section
2 ten, article nine-a of this chapter;

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

5 (3) Moneys paid into the School Construction Fund pursuant to section six of this article; and

6 (4) Any other moneys received by the authority, except moneys deposited into the School
7 Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to
8 section five, article nine-f of this chapter, may be reserved by the authority for multiuse
9 vocational-technical education facilities projects that may include post-secondary programs as a first
10 priority use. The authority may allocate and expend under this subsection moneys for any purposes
11 authorized in this article on multiuse vocational-technical education facilities projects, including
12 equipment and equipment updates at the facilities, authorized in accordance with the provisions of
13 section sixteen of this article. If the projects approved under this subsection do not require the full
14 amount of moneys reserved, moneys above the amount required may be allocated and expended in
15 accordance with other provisions of this article. A county board, the state board, an administrative
16 council or the joint administrative board of a vocational-technical education facility which includes
17 post-secondary programs may propose projects for facilities or equipment, or both, which are under
18 the direct supervision of the respective body: *Provided*, That the authority shall, before allocating
19 any moneys for a project under this subsection, consider all other funding sources available for the
20 project.

21 (e) The remaining moneys determined by the authority to be available for distribution during

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1 the then current fiscal year from:

2 (1) Moneys paid into the School Building Capital Improvements Fund pursuant to section
3 ten, article nine-a of this chapter;

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

6 (3) Moneys paid into the School Construction Fund pursuant to section six of this article; and

7 (4) Any other moneys received by the authority, except moneys deposited into the School
8 Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to
9 section five, article nine-f of this chapter, shall be allocated and expended on the basis of need and
10 efficient use of resources for projects funded in accordance with the provisions of section sixteen of
11 this article.

12 (f) If a county board proposes to finance a project that is authorized in accordance with
13 section sixteen of this article through a lease with an option to purchase leased premises upon the
14 expiration of the total lease period pursuant to an investment contract, the authority may not allocate
15 moneys to the county board in connection with the project: *Provided*, That the authority may transfer
16 moneys to the state board which, with the authority, shall lend the amount transferred to the county
17 board to be used only for a one-time payment due at the beginning of the lease term, made for the
18 purpose of reducing annual lease payments under the investment contract, subject to the following
19 conditions:

20 (1) The loan shall be secured in the manner required by the authority, in consultation with
21 the state board, and shall be repaid in a period and bear interest at a rate as determined by the state

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1 board and the authority and shall have any terms and conditions that are required by the authority,
2 all of which shall be set forth in a loan agreement among the authority, the state board and the county
3 board;

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

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

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

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

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

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

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

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

20 (h) The remaining moneys that are determined by the authority to be available for distribution
21 during the then current fiscal year from moneys paid into the School Major Improvement Fund

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1 pursuant to section six of this article shall be allocated and distributed on the basis of need and
2 efficient use of resources for projects authorized in accordance with the provisions of section sixteen
3 of this article, subject to the following:

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

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

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

12 (i) Local matching funds may not be required under the provisions of this section. However,
13 this article does not negate the responsibilities of the county boards to maintain school facilities. To
14 be eligible to receive an allocation of school major improvement funds from the authority, a county
15 board must have expended in the previous fiscal year an amount of county moneys equal to or
16 exceeding the lowest average amount of money included in the county board's maintenance budget
17 over any three of the previous five years and must have budgeted an amount equal to or greater than
18 the average in the current fiscal year: *Provided*, That the state board shall promulgate rules relating
19 to county boards' maintenance budgets, including items which shall be included in the budgets.

20 (j) Any county board may use moneys provided by the authority under this article in
21 conjunction with local funds derived from bonding, special levy or other sources. Distribution to a

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1 county board, or to the state board or the administrative council of an area vocational educational
2 center pursuant to subsection (b) of this section, may be in a lump sum or in accordance with a
3 schedule of payments adopted by the authority pursuant to guidelines adopted by the authority.

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

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

7 (2) To the extent that funds are available in the School Construction Fund in excess of that
8 amount appropriated in any fiscal year, the excess funds may be expended for projects authorized
9 in accordance with the provisions of section sixteen of this article.

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

16 (m) County boards shall submit all designs for construction of new school buildings to the
17 School Building Authority for review and approval prior to preparation of final bid documents. A
18 vendor who has been debarred pursuant to the provisions of sections thirty-three-a through
19 thirty-three-f, inclusive, article three, chapter five-a of this code may not bid on or be awarded a
20 contract under this section.

21 (n) The authority may elect to disburse funds for approved construction projects over a period

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1 of more than one year subject to the following:

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

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

7 (3) In order to encourage local participation in funding school construction projects, the
8 authority may set aside limited funding, not to exceed \$500,000, in reserve for one additional year
9 to provide a county the opportunity to complete financial planning for a project prior to the allocation
10 of construction funds. Any funding shall be on a reserve basis and converted to a part of the
11 construction grant only after all project budget funds have been secured and all county commitments
12 have been fulfilled. Failure of the county to solidify the project budget and meet its obligations to
13 the state within eighteen months of the date the funding is set aside by the authority will result in
14 expiration of the reserve and the funds shall be reallocated by the authority in the succeeding funding
15 cycle.