

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2720

**FISCAL
NOTE**

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Introduced February 27, 2017; Referred
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-9D-8 of the Code of West Virginia, 1931, as amended; relating
2 to allowing the School Building Authority to transfer funds allocated into the School
3 Construction Fund to a special revenue account in the State Treasury.

Be it enacted by the Legislature of West Virginia:

1 That §18-9D-8 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§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 the
7 provisions of this article shall be authorized, from time to time, by resolution or resolutions of the
8 School Building Authority, copies of which shall be provided to the Governor, the President of the
9 Senate and the Speaker of the House of Delegates within five days of their approval, which shall
10 set forth the proposed projects authorized in accordance with the provisions of section sixteen of
11 this article and provide for the issuance of bonds in amounts sufficient, when sold as provided in
12 this section, to provide moneys considered sufficient by the authority to pay the costs, less the
13 amounts of any other funds available for the costs or from any appropriation, grant or gift for the
14 costs: *Provided*, That bond issues from which bond revenues are to be distributed in accordance
15 with section fifteen of this article for projects authorized pursuant to the provisions of section
16 sixteen of this article are not required to set forth the proposed projects in the resolution. The
17 resolution shall prescribe the rights and duties of the bondholders and the School Building
18 Authority and, for that purpose, may prescribe the form of the trust agreement referred to in this

19 section. The bonds may be issued, from time to time, in such amounts; shall be of such series;
20 bear such date or dates; mature at such time or times not exceeding forty years from their
21 respective dates; bear interest at such rate or rates; be in such denominations; be in such form,
22 either coupon or registered, carrying such registration, exchangeability and interchangeability
23 privileges; be payable in such medium of payment and at such place or places within or without
24 the state; be subject to such terms of redemption at such prices not exceeding one hundred five
25 percent of the principal amount of the bonds; and be entitled to such priorities on the revenues
26 paid into the fund pledged for repayment of the bonds as may be provided in the resolution
27 authorizing the issuance of the bonds or in any trust agreement made in connection with the
28 bonds: *Provided, however,* That revenue bonds issued on or after January 1, 1994, and prior to
29 January 1, 2008, which are secured by lottery proceeds from section eighteen, article twenty-two,
30 chapter twenty-nine of this code shall mature at such time or times not exceeding ten years from
31 their respective dates: *Provided further,* That revenue bonds issued on or after January 1, 2008,
32 which are secured by lottery proceeds from section eighteen or eighteen-a, article twenty-two,
33 chapter twenty-nine of this code, shall mature at such time or times not exceeding twenty years
34 from their respective dates.

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

43 (c) Any pledge of revenues made by the School Building Authority for revenue bonds
44 issued prior to July 20, 1993, pursuant to this article is valid and binding between the parties from

45 the time the pledge is made; and the revenues pledged shall immediately be subject to the lien of
46 the pledge without any further physical delivery of the revenues pledged or further act. The lien
47 of the pledge is valid and binding against all parties having claims of any kind in tort, contract or
48 otherwise, irrespective of whether the parties have notice of the lien of the pledge and the pledge
49 shall be a prior and superior charge over any other use of the revenues pledged.

50 (d) The proceeds of any bonds shall be used solely for the purpose or purposes as may
51 be generally or specifically set forth in the resolution authorizing those bonds and shall be
52 disbursed in the manner and with the restrictions, if any, that the authority provides in the
53 resolution authorizing the issuance of the bonds or in the trust agreement referred to in this section
54 securing the bonds. If the proceeds of the bonds, by error in calculations or otherwise, are less
55 than the cost of any projects specifically set forth in the resolution, additional bonds may in like
56 manner be issued to provide the amount of the deficiency; and unless otherwise provided for in
57 the resolution or trust agreement hereinafter mentioned, the additional bonds shall be considered
58 to be of the same issue and are entitled to payment from the same fund, without preference or
59 priority, as the bonds before issued for the projects. If the proceeds of bonds issued for the
60 projects specifically set forth in the resolution authorizing the bonds issued by the authority exceed
61 the cost of the bonds, the surplus may be used for any other projects authorized in accordance
62 with the provisions of section sixteen of this article or in any other manner that the resolution
63 authorizing the bonds provides. Prior to the preparation of definitive bonds, the authority may,
64 under like restrictions, issue temporary bonds with or without coupons, exchangeable for definitive
65 bonds upon the issuance of the definitive bonds.

66 (e) After the issuance of any revenue bonds, the revenues pledged for the revenue bonds
67 shall not be reduced as long as any of the revenue bonds are outstanding and unpaid except
68 under the terms, provisions and conditions that are contained in the resolution, trust agreement
69 or other proceedings under which the revenue bonds were issued.

70 (f) The revenue bonds and the revenue refunding bonds and bonds issued for combined

71 purposes, together with the interest on the bonds, are exempt from all taxation by the State of
72 West Virginia, or by any county, school district, municipality or political subdivision thereof.

73 (g) To meet the operational costs of the School Building Authority, the School Building
74 Authority may transfer to a special revenue account in the State Treasury ~~interest on any debt~~
75 ~~service reserve funds created within any resolution authorizing the issue of bonds or any trust~~
76 ~~agreement made in connection with the bonds for expenditure in accordance with legislative~~
77 ~~appropriation or allocation of appropriation~~ funds allocated into the School Construction Fund
78 created pursuant to section six of this article.

79 (h) Any school construction bonds issued under this section shall be issued on parity with
80 any existing School Building Authority bonds previously issued under this article.

NOTE: The purpose of this bill is to permit the School Building Authority to transfer funds from the School Construction Fund into a special revenue account in the State Treasury.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.