WEST VIRGINIA LEGISLATURE

**FISCAL NOTE**

2023 REGULAR SESSION

Introduced

House Bill 3095

By Delegates Howell, Westfall, Dean, Jeffries, Fast, Zatezalo, Kelly, Phillips, Hillenbrand, Clark, and Storch

[Introduced January 26, 2023; Referred to the Committee on Economic Development and Tourism then Education]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-16a; and to amend and reenact §18-9D-3 of said code, all relating to creating a Department of Economic Development grant program; to create a special revenue account in the State Treasury known as the "School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund;" and to authorize project administration of the "School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund" projects by the School Building Authority and School Building Authority project administration program for constructing, renovating and/or expanding agricultural, vocational and technical training facilities at West Virginia primary and secondary schools.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

§5B-2-16a. School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund.

(a) A special revenue account in the State Treasury known as the "School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund" is hereby created and to be continued. The receipt of applications for, and the awarding of grants from, the School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund shall be administered by the Secretary of the Department of Economic Development or his/her designee. Administration and management of construction projects funded in whole or in part from the awarding of grants from this fund shall be the responsibility of the School Building Authority.

(b) The School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund shall consist of all moneys appropriated by legislative budget or otherwise lawfully acquired from other sources, solely for awarding grants from the School Building Authority Agricultural, Vocational and Technical Training Facilities Fund for aiding in constructing, renovating and/or expanding agricultural, vocational and technical training facilities at West Virginia primary and secondary schools, and as otherwise set forth in this §5B-2-16a and §18-9D-3 of this code. Individual grant applicants and the Secretary of the West Virginia Department of Economic Development or his/her designee are authorized to partner with private sector agriculture, industry and business to secure private sector funding for the purposes of constructing, renovating and/or expanding agricultural, vocational and technical training facilities at West Virginia primary and secondary schools.

(c) The fund consists of moneys received from the following sources:

(1) All appropriations provided by the Legislature;

(2) Any moneys lawfully available from external sources; and

(3) All interest and other income earned from investment of moneys in the fund.

(d) The Department of Economic Development shall use moneys in the fund to award grants to approved applicants for aid in constructing, renovating and/or expanding agricultural, vocational and technical training facilities at West Virginia primary and secondary schools in order to facilitate improvements in agricultural, vocational and technical workforce participation in West Virginia, and to attract individuals in agricultural, vocational and technical fields to relocate to West Virginia.

(e) Grants from the fund by may only be awarded by the Department of Economic Development in accordance with specific designated appropriation by the Legislature, if any, and/or only for funding any construction, renovation and/or expansion project budget shortfalls for agricultural, vocational and technical training facilities at West Virginia primary and secondary schools after the applicant has been denied and/or exhausted all other moneys available from other external grants or other funding sources. In applying for any grant, the applicant must establish that they have applied for all available Appalachian Regional Commission, US Department of Agriculture, and other applicable government or private sector grants in order to qualify for any grant from the School Building Authority for Agricultural, Vocational and Technical Training Facilities Grant Fund. Secretary of Economic Development or his or her designee is authorized to determine that applicants have met the requirement to have applied for all other requisite funding.

(f) The Secretary of the West Virginia Department of Economic Development may promulgate rules to carry out the purposes and programs of the School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund and the procedures and eligibility requirements for applications for grants under this program. These rules are not subject to Chapter 29A of this code, but shall be filed with the Secretary of State.

(g) The West Virginia Department of Economic Development is authorized to partner with private sector agriculture, industry and business to secure private sector funding in order to seed and/or maintain the grant fund dedicated to the purposes of constructing, renovating and/or expanding agricultural, vocational and technical training facilities at West Virginia primary and secondary schools.

(h) Any balance, including accrued interest and any other returns, in the Agricultural, Vocational and Technical Training Facilities Grant Fund at the end of each fiscal year may not expire to the General Revenue Fund but shall remain in the fund and be expended for the purposes provided by §5B-2-16a and §18-9D-3 of this code.

(i) Fund balances may be invested with the state’s Consolidated Investment Fund. Earnings on the investments shall be used solely for the purposes defined in §5B-2-16a and §18-9D-3 of this code.

CHAPTER 18. EDUCATION.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-3. Powers of authority; School Building Authority Fund; School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund Project Administration.

(a) The School Building Authority has the power:

(1) To sue and be sued, plead and be impleaded;

(2) To have a seal and alter the same at pleasure;

(3) To contract to acquire and to acquire, in the name of the authority, by purchase, lease-purchase not to exceed a term of twenty-five years, or otherwise, real property or rights or easements necessary or convenient for its corporate purposes and to exercise the power of eminent domain to accomplish those purposes;

(4) To acquire, hold and dispose of real and personal property for its corporate purposes;

(5) To make bylaws for the management and rule of its affairs;

(6) To appoint, contract with and employ attorneys, bond counsel, accountants, construction and financial experts, underwriters, financial advisers, trustees, managers, officers and such other employees and agents as may be necessary in the judgment of the authority and to fix their compensation: *Provided,* That contracts entered into by the School Building Authority in connection with the issuance of bonds under this article to provide professional and technical services, including, without limitation, accounting, actuarial, underwriting, consulting, trustee, bond counsel, legal services and contracts relating to the purchase or sale of bonds are subject to the provisions of article three, chapter five-a of this code: *Provided, however,* That notwithstanding any other provisions of this code, any authority of the Attorney General of this state relating to the review of contracts and other documents to effectuate the issuance of bonds under this article shall be exclusively limited to the form of the contract and document: *Provided further,* That the Attorney General of this state shall complete all reviews of contracts and documents relating to the issuance of bonds under this article within ten calendar days of receipt of the contract and document for review;

(7) To make contracts and to execute all instruments necessary or convenient to effectuate the intent of and to exercise the powers granted to it by this article;

(8) To renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the authority that its interests will be best served;

(9) To acquire by purchase, eminent domain or otherwise all real property or interests in the property necessary or convenient to accomplish the purposes of this article;

(10) To require proper maintenance and insurance of any project authorized under this section, including flood insurance for any facility within the one hundred year flood plain at which authority funds are expended;

(11) To charge rent for the use of all or any part of a project or buildings at any time financed, constructed, acquired or improved, in whole or in part, with the revenues of the authority;

(12) To assist any county board of education that chooses to acquire land, buildings and capital improvements to existing school buildings and property for use as public school facilities, by lease from a private or public lessor for a term not to exceed twenty-five years with an option to purchase pursuant to an investment contract with the lessor on such terms and conditions as may be determined to be in the best interests of the authority, the state Board of Education and the county board of education, consistent with the purposes of this article, by transferring funds to the state Board of Education as provided in subsection (d), section fifteen of this article for the use of the county board of education;

(13) To accept and expend any gift, grant, contribution, bequest or endowment of money and equipment to, or for the benefit of, the authority or any project under this article, from the State of West Virginia or any other source for any or all of the purposes specified in this article or for any one or more of such purposes as may be specified in connection with the gift, grant, contribution, bequest or endowment;

(14) To enter on any lands and premises for the purpose of making surveys, soundings and examinations;

(15) To contract for architectural, engineering or other professional services considered necessary or economical by the authority to provide consultative or other services to the authority or to any regional educational service agency or county board requesting professional services offered by the authority, to evaluate any facilities plan or any project encompassed in the plan, to inspect existing facilities or any project that has received or may receive funding from the authority or to perform any other service considered by the authority to be necessary or economical. Assistance to the region or district may include the development of preapproved systems, plans, designs, models or documents; advice or oversight on any plan or project; or any other service that may be efficiently provided to Regional Educational Service Agencies or county boards by the authority;

(16) To provide funds on an emergency basis to repair or replace property damaged by fire, flood, wind, storm, earthquake or other natural occurrence, the funds to be made available in accordance with guidelines of the School Building Authority;

(17) To transfer moneys to custodial accounts maintained by the School Building Authority with a state financial institution from the school construction fund and the school improvement fund created in the State Treasury pursuant to the provisions of section six of this article, as necessary to the performance of any contracts executed by the School Building Authority in accordance with the provisions of this article;

(18) To enter into agreements with county boards and persons, firms or corporations to facilitate the development of county board projects and county board facilities plans. The county board participating in an agreement shall pay at least twenty-five percent of the cost of the agreement. Nothing in this section shall be construed to supersede, limit or impair the authority of county boards to develop and prepare their projects or plans;

(19) To encourage any project or part thereof to provide opportunities for students to participate in supervised, unpaid work-based learning experiences related to the student’s program of study approved by the county board. The work-based learning experience must be conducted in accordance with a formal training plan approved by the instructor, the employer and the student and which sets forth at a minimum the specific skills to be learned, the required documentation of work-based learning experiences, the conditions of the placement, including duration and safety provisions, and provisions for supervision and liability insurance coverage as applicable. Projects involving the new construction and renovation of vocational-technical and adult education facilities should provide opportunities for students to participate in supervised work-based learning experiences, to the extent practical, which meet the requirements of this subdivision. Nothing in this subdivision may be construed to affect registered youth apprenticeship programs or the provisions governing those programs; and

(20) To do all things necessary or convenient to carry out the powers given in this article.

(b) The special revenue account in the State Treasury known as the "School Building Authority Fund" is hereby continued. The fund is to be administered by the School Building Authority. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code.

(c) The special revenue account in the State Treasury known as the "School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund" created in §5B-2-16a of the Code of West Virginia is authorized to provide grants to the School Building Authority for the purposes set forth in §5B-2-16a and this §18-9D-3(c) of this code.

(1) Any construction, renovation and/or expansion projects awarded grants from the West Virginia Department of Economic Development and funded pursuant to §5B-2-16a of this code from the School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund, are to be administered by the School Building Authority. Expenditures from such grant funding shall be solely for the purposes of constructing, renovating and/or expanding agricultural, vocational and technical training facilities at West Virginia primary and secondary schools.

(2) Individual grant recipients and the School Building Authority are authorized to partner with private sector agriculture, industry and business to secure additional private sector funding for the purposes of constructing, renovating and/or expanding agricultural, vocational and technical training facilities at West Virginia primary and secondary schools.

NOTE: The purpose of this bill is to create a fund for, and a grant program dedicated to, the purposes of constructing, renovating and/or expanding agricultural, vocational and technical training facilities at West Virginia primary and secondary schools.

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