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HOUSE BILL NO. 648

Offered January 9, 2002

Prefiled January 8, 2002

A BILL to amend and reenact § 23-30.28 of the Code of Virginia, and to amend the Code of Virginia by adding in Title 23 a chapter numbered 3.4, consisting of a section numbered 23-30.59, creating the Higher Education Renovation Trust Fund; relating to the issuance of bonds by the Virginia College Building Authority and renovations and improvements at institutions of higher education.

Patron—Dudley

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 23-30.28 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Title 23 a chapter numbered 3.4, consisting of a section numbered 23-30.59, as follows:

§ 23-30.28. Bonds of Authority generally.

In order to provide funds for the purchase of educational institution bonds as authorized by § 23-30.27, to provide funds for the acquisition of equipment as authorized by § 23-30.27:1, and to provide funds for the purpose of paying all or any part of the cost of any one or more projects or of any portion or portions thereof, the Authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds of the Authority in such amount or amounts as the Authority shall determine. Such bonds of the Authority shall be payable solely from funds of the Authority, including, but without limitation, any one or more of the following: (i) payments of principal of and interest on educational institution bonds purchased by the Authority, (ii) the proceeds of the sale of any such educational institution bonds, (iii) payments of principal of and interest on obligations transferred to the Authority by the General Assembly or from other assets or moneys transferred to the Authority by the General Assembly or educational institutions, including lease payments or any other source of revenue, (iv) the proceeds of the sale of any such obligations or assets, (v) the proceeds from the sale of bonds of the Authority, (vi) payments made by educational institutions under leases or sales of equipment by the Authority, (vii) funds realized from the enforcement of security interests or other liens securing such bonds, (viii) payments due under letters of credit, policies of bond insurance, bond purchase agreements or other credit enhancements securing payment of principal of and interest on bonds of the Authority, (ix) any moneys held in funds established by the Authority pursuant to § 23-30.27:1, (x) any reserve or sinking funds created to secure such payment, and (xi) other available funds of the Authority. Bonds of the Authority issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the faith or credit of the Commonwealth and all bonds of the Authority shall contain on the face thereof a statement to the effect that neither the faith and credit, nor the taxing power of the Commonwealth or of any political subdivision thereof is, or shall be, pledged to the payment of the principal of or the interest on such bonds.

The bonds of each issue shall be dated, shall mature at such time or times, not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the Authority or as determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by it. The principal and interest of such bonds may be made payable in any lawful medium. The Authority shall determine the form of the bonds and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at the office of the State Treasurer or at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All revenue bonds issued under the provisions of this chapter (other than bonds registered as to principal or in registered form) shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the law of this Commonwealth. The bonds shall be in such form, shall bear interest at such rate or rates, either fixed rates or rates established by formula or other method, and may

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59 contain such other provisions, all as the Authority may determine. The principal of and premium, if any,
60 and interest on the bonds shall be payable in lawful money of the United States of America. The
61 Authority shall fix the denomination or denominations of the bonds and place or places of payments of
62 principal, premium, if any, and interest at any one or more banks or trust companies within or without
63 the Commonwealth.

64 Bonds may be issued under a system of book entry for recording the ownership and transfer of
65 ownership of rights to receive payments of principal of and premium, if any, and interest on the bonds.

66 The Authority may sell such bonds in such manner, either at public or private sale, and for such
67 price as it may determine to be in the best interests of the Authority. The proceeds of such bonds shall
68 be disbursed for the purposes for which such bonds shall have been issued under such restrictions, if
69 any, as the resolution authorizing the issuance of such bonds or the trust indenture hereinafter mentioned
70 may provide. Prior to the preparation of definitive bonds, the Authority may under like restrictions issue
71 temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall
72 have been executed and are available for delivery. The Authority may also provide for the replacement
73 of any bond which shall become mutilated or shall be destroyed or lost. Such revenue bonds may be
74 issued without any other proceedings or the happening of any other conditions or things than the
75 proceedings, conditions, and things which are specified and required by this chapter.

76 Neither the members of the Authority nor any person executing any bonds issued under the
77 provisions of this chapter shall be liable personally on such bonds or be subject to any personal liability
78 or accountability by reason of the issuance thereof.

79 No project for an institution listed in § 23-14 shall be undertaken by the Authority ~~if such~~ unless (a)
80 the financing of such project ~~was not~~ is specifically included authorized in a bill legislation passed by a
81 majority of those elected to each house of the General Assembly, authorizing such project ~~or projects or~~
82 (b) legislation passed by a majority of those elected to each house of the General Assembly sets forth an
83 allocation of funds for such institution for renovation or improvement projects and the project to be
84 undertaken by the Authority constitutes a renovation or improvement project and is within the limits of,
85 and otherwise in accordance with, the provisions of such legislative allocation. In addition, ~~any such~~
86 project if Authority bonds issued to finance a project are secured by a note or other obligation of the
87 institution, such project shall have been designated by the institution's board of visitors as a project to
88 be undertaken by the Authority.

89 CHAPTER 3.4.

90 HIGHER EDUCATION RENOVATION TRUST FUND.

91 § 23-30.59. Higher Education Renovation Trust Fund created.

92 A. From such funds as may be appropriated for this purpose and from such gifts, donations, grants,
93 bequests, and other funds as may be received on its behalf, there is hereby created in the Department of
94 the Treasury a special nonreverting fund known as the Higher Education Renovation Trust Fund,
95 hereinafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller,
96 and any moneys remaining in such Fund at the end of the biennium shall not revert to the general fund
97 but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to
98 it.

99 B. Disbursements from the Fund may be made to any state-supported institution of higher education,
100 as defined in § 23-9.5, to finance capital renovation projects upon the approval of both the Secretary of
101 Education and the Secretary of Finance. Any moneys allocated for a specific institution that remains in
102 the Fund at the end of the fiscal year shall continue to be allocated to that same project for use in the
103 subsequent fiscal year.

104 C. For the purposes of this chapter, a "capital renovation project" means any capital project that
105 provides for: (i) the alteration of the interior space of a facility so that it may be more effectively used
106 for its presently designated functional purpose, (ii) the conversion of the interior space of a facility so
107 that it may be effectively utilized for a new functional purpose, (iii) the modernization or refurbishment
108 of an existing facility or infrastructure asset, or (iv) the restoration of a historical facility to its original
109 state.

110 D. The Secretary of Education and the Secretary of Finance, with assistance from the State Council
111 of Higher Education for Virginia, the Department of Planning and Budget and the Department of
112 General Services, shall establish guidelines outlining the criteria by which institutions may request
113 capital projects to receive funding through the Fund. The total cost of a capital renovation project
114 eligible for funding shall not exceed five million dollars unless otherwise specified in the general
115 Appropriation Act.

116 E. By October 1 of each year, the State Council of Higher Education for Virginia shall submit an
117 annual report on disbursements from the Fund and the status of available resources in the Fund to the
118 Governor and the chairmen of the House Appropriations Committee and the Senate Finance Committee.