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HOUSE BILL NO. 2801

Offered January 17, 2003

A BILL to amend and reenact §§ 22.1-166.1 and 22.1-166.2 of the Code of Virginia, relating to the payment of grants by the Virginia Public School Authority to localities for public school construction; the School Construction Grant Act of 2003.

Patrons—Scott, Albo, Almand, Amundson, Baskerville, Bolvin, Brink, Christian, Darner, Devolites, Hull, Moran, Petersen, Plum, Rust and Watts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-166.1 and 22.1-166.2 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-166.1. Loans to local school boards.

The Authority is authorized to make loans or loan interest rate subsidy payments, from any of the funds of the Authority available for such purpose, to local school boards for the purpose of acquiring and installing capital projects for school purposes for which loans from the Literary Fund are not immediately available. For the purpose of this section and § 22.1-166.2, capital projects for school purposes shall mean motor vehicles and educational technology equipment.

A. No loan from the Authority shall exceed 100 percent of the cost of the capital project for school purposes for which such loan is made.

B. A loan from the Authority shall be evidenced by notes payable to the Authority, executed or signed by the chairman of the school board, with the approval of the local governing body, attested by the clerk thereof and deposited with the State Treasurer. Payments of interest and principal on such notes shall be made to the State Treasurer. Any loan from the Authority shall be repayable in installments as shall be approved by the local school board, as appropriate, with the final installment being due not more than thirty years after the date of such loan. The time of payment may be extended in the discretion of the Authority.

C. The local governing bodies and the local school boards of the several school divisions are authorized to borrow money from the Authority, at such rate or rates, fixed or variable, as shall be approved by the local school board; any local school board to borrow from the Authority shall first make written application to the Authority for such loan on a form to be prescribed by the Authority.

D. The governing body of any county, city, or town, if the town constitutes the school division, in which the local school board has borrowed money from the Authority shall include in its levies, and appropriate to the local school board, a fund sufficient to meet the liabilities of the local school board on such loan if and to the extent such liabilities are not otherwise provided for by the General Assembly. The governing body of any county in which the local school board has borrowed money from the Authority for capital projects located in a town in such county constituting a separate school division shall have authority to include, in its levies for such town, a levy sufficient to meet the liabilities of the local school board on such loan if and to the extent such liabilities are not otherwise provided for by the General Assembly and shall levy a separate tax in the rest of the county to meet its liabilities on any contract for capital projects outside such town. In the event that such local school board shall fail to pay any installment of interest or principal promptly, upon notice in writing to that effect from the State Treasurer, the county, city, or town treasurer shall pay to the State Treasurer any such past due installment of interest or principal out of the funds in his hands belonging to such county, city, or town. The failure of such governing body to provide for the payment of such loan or the interest thereon when and as due shall be deemed a cause for removal of the members thereof from office on motion before the circuit court having jurisdiction in such county, city, or town, instituted by the attorney for the Commonwealth of such county or city or by the Attorney General where the attorney for the Commonwealth refuses or neglects to act after demand on him to proceed.

E. The local school board of any school division composed of part or all of a county, with the approval of the governing body of the county, is authorized to borrow from the Authority for the purpose of financing capital projects in such county to serve a portion of such county. Taxes on property in the magisterial districts served by such capital projects shall be levied by the governing body of the county and collected for the purpose of repaying such loan; for the purposes of this section, a magisterial district shall not include a town constituting a separate school division but the governing body of the county may levy a separate tax on property in a town in such county constituting a separate school division to repay money borrowed by such county from the Authority for the purpose of

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58 financing capital projects in such town. Except as otherwise provided by this subsection, all other
59 provisions of law relating to loans from the Authority shall apply to a loan authorized by this
60 subsection.

61 F. Any local school board which is indebted for any money borrowed from the Authority may
62 anticipate the payment of the principal amount of any such loans, or any part thereof, by the payment of
63 such principal amount with interest thereon to the date of such anticipated payment and may borrow
64 money and issue bonds for the purpose of raising funds to pay any notes or other obligations of the
65 local school board now and hereafter held by the Authority.

66 § 22.1-166.2. Grants to localities.

67 The Authority is authorized to make grants of money, from any of the funds of the Authority
68 available for such purpose, to local school boards *or to counties and cities* for ~~the purchase of~~ capital
69 projects for school purposes.

70 2. § 1. *That this act shall be known and may be cited as the "School Construction Grant Act of 2003."*

71 § 2. *The Virginia Public School Authority (the "Authority") shall provide a total of \$950 million in*
72 *grants to counties and cities of the Commonwealth to be used exclusively for school construction, school*
73 *additions, or school infrastructure; site acquisition for public school buildings and facilities; or school*
74 *renovations, including the costs of retrofitting or enlarging public school buildings. Such grants shall*
75 *not be used to pay debt service of local governments, school boards, or school divisions. The amount of*
76 *grants to be provided to each county and city shall be as provided in § 3 of this act. Funds for the*
77 *payment of such grants shall be provided from the issuance of bonds by the Authority, with all bonds as*
78 *required to raise such \$950 million being issued no later than January 1, 2010. The schedule for the*
79 *issuance of such bonds and the payment of debt service on such bonds shall be as provided in the*
80 *general appropriation act.*

81 *Such grants shall be in addition to all other grants made to local governments, school boards, or school*
82 *divisions, including, but not limited to, grants made (i) pursuant to the Virginia Public School*
83 *Construction Grant Program (§ 22.1-175.1 et seq. of the Code of Virginia); (ii) pursuant to the Virginia*
84 *Public School Educational Technology Grants Program (§ 22.1-175.6 et seq. of the Code of Virginia);*
85 *or (iii) to local school boards by the Authority prior to July 1, 2003. In addition, such grants shall not*
86 *replace or be in lieu of loans to local school boards or interest rate subsidy payments to local school*
87 *boards pursuant to Chapter 11.1 (§22.1-175.1 et seq.) of Title 22.1 and the issuance of such bonds and*
88 *the payment of such grants shall not, except as herein provided, affect, or otherwise amend the*
89 *provisions of such chapter as they relate to the powers and duties of the Authority, local school boards,*
90 *local governments, or any other entity.*

91 *Such grants shall not be used to calculate or reduce the share of federal, state, or local revenues or*
92 *funds otherwise available to local governments, school boards, or school divisions, nor shall they be*
93 *used to calculate or reduce any allocation of revenues or funds including, but not limited to, state basic*
94 *aid payments.*

95 § 3. *The Authority shall distribute the \$950 million in grants among all counties and cities as provided*
96 *in this section.*

97 *a. One-half of such amount shall be distributed to each county and city of the Commonwealth according*
98 *to the proportion of sales and use tax revenue that is generated and collected within the geographic*
99 *boundaries of each county and city. Such amount shall be distributed to the respective county or city in*
100 *accordance with the same procedures for the collection of sales tax moneys pursuant to subsection E of*
101 *§ 58.1-605 and the same procedures for the collection of use tax moneys pursuant to subsections E and*
102 *F of § 58.1-606. Provided however, that in any county wherein is situated any incorporated town*
103 *constituting a school division, the Authority shall deduct from the county's distribution and shall*
104 *distribute to the town the proper proportionate amount in the ratio that the school population of such*
105 *town bears to the school population of the entire county.*

106 *b. The remaining one-half of such amount shall be distributed to the counties and cities of the*
107 *Commonwealth on a set per pupil amount, based on the latest actual adjusted average daily*
108 *membership, and adjusted by the locality's composite index of ability to pay as set forth in the general*
109 *appropriation act. Provided however, that in any county wherein is situated any incorporated town*
110 *constituting a school division, the Authority shall deduct from the county's distribution and shall*
111 *distribute to the town the proper proportionate amount in the ratio that the school population of such*
112 *town bears to the school population of the entire county.*

113 § 4. *The Board of Education shall determine the priority for the payment of the grants set forth in § 3 of*
114 *this act to each locality. When the Board determines that a grant shall be paid to a locality under this*
115 *act, it shall provide a written certification to the chairman of the Authority directing him to make a*
116 *grant payment in a specific amount to the locality. The Board, however, shall not make such written*
117 *certification until it has established that the Authority has sufficient funds to make such grant payment.*
118 *The Authority shall only make grant payments to a locality for the grants provided under this act upon*
119 *receipt of such written certification. The Authority shall make such grant payments, and in the amounts*

120 *as directed by the Board, within 30 days of receipt of the certification.*
121 *The Board shall issue guidelines for the priority for the payment of grants to localities. Guidelines for*
122 *the priority for the payment of grants shall provide, among other criteria, that grants shall be paid to*
123 *localities based upon (i) the need for the public school project in comparison to the need for public*
124 *school projects in other localities as determined by the Board, (ii) the readiness of the public school*
125 *project for construction, building, or completion as determined by the Board, and (iii) the Authority*
126 *having sufficient funds on hand to make such grant payments.*
127 *The guidelines shall also include, but shall not be limited to, (i) provisions which address approval by*
128 *the local governing body of the construction, addition, or site acquisition for which grant moneys are*
129 *sought, (ii) the application for a grant by a locality pursuant to this act, and (iii) the implementation of*
130 *the procedure for disbursing grants to localities.*
131 *§ 5. The Authority shall maintain separate accounts for the grants paid to localities under this act and*
132 *for bonds issued to raise funds for the payment of such grants. The Authority shall take all necessary*
133 *and proper steps, as it is authorized to take under law, to carry out the provisions of this act.*
134 *§ 6. Beginning in 2004, the Board of Education shall make an annual report to the General Assembly*
135 *on June 1 of each year reporting (i) the total grants paid during the prior calendar year to each*
136 *locality pursuant to the provisions of this act, and (ii) a detailed description of the public school*
137 *projects for which the grants were used.*
138 **3. That the Virginia Public School Authority shall not incur more than a total of \$250 million in**
139 **debt or other payment obligations in any fiscal year in implementing the provisions of the second**
140 **enactment of this act. "Debt or other payment obligations" means a source of funding, either**
141 **directly or indirectly, through bonded indebtedness or other borrowings of the Authority except**
142 **that it shall not include the (i) issuance costs, capitalized interest, reserve funds, and other**
143 **financing expenses directly relating to bonds issued for implementation of the School Construction**
144 **Grant Act of 2003 or (ii) bond anticipation notes, refunding bonds, or refunding bond anticipation**
145 **notes issued or directly relating to implementation of the School Construction Grant Act of 2003.**