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**SENATE BILL NO. 20**

Offered January 14, 2004

Prefiled December 9, 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 local school divisions for public school construction; the School Construction Grant Act of 2004.*

Patron—Puller

Referred to Committee on Education and Health

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

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

67 § 22.1-166.2. Grants to local school boards.

68 The Authority is authorized to make grants of money, from any of the funds of the Authority  
69 available for such purpose, to local school boards for the purchase of capital projects for school  
70 purposes.

71 2. § 1. That this act shall be known and may be cited as the "School Construction Grant Act of 2004."

72 § 2. The Virginia Public School Authority (the "Authority") shall provide a total of \$1 billion in  
73 grants to the local school divisions of the Commonwealth to be used exclusively for school construction,  
74 school additions, or school infrastructure; site acquisition for public school buildings and facilities; or  
75 school renovations, including the costs of retrofitting or enlarging public school buildings. Such grants  
76 shall not be used to pay debt service of local governments, school boards, or school divisions. The  
77 amount of grants to be provided to each local school division shall be as provided in § 3 of this act.  
78 Funds for the payment of such grants shall be provided from the issuance of bonds by the Authority,  
79 with all bonds as required to raise such \$1 billion being issued no later than January 1, 2011. The  
80 schedule for the issuance of such bonds and the payment of debt service on such bonds shall be as  
81 provided in the general appropriation act, with such debt service to be paid from general funds.

82 Such grants shall be in addition to all other grants made to local governments, school boards or  
83 school divisions, including, but not limited to, grants made (i) pursuant to the Virginia Public School  
84 Construction Grants Program (§ 22.1-175.1 et seq. of the Code of Virginia); (ii) pursuant to the  
85 Virginia Public School Educational Technology Grants Program (§ 22.1-175.6 et seq. of the Code of  
86 Virginia); or (iii) to local school boards by the Authority prior to July 1, 2004. In addition, such grants  
87 shall not replace or be in lieu of loans to local school boards or interest rate subsidy payments to local  
88 school boards pursuant to Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1 of the Code of Virginia and  
89 the issuance of such bonds and the payment of such grants shall not, except as herein provided, affect,  
90 or otherwise amend the provisions of such chapter as they relate to the powers and duties of the  
91 Authority, local school boards, local governments, or any other entity.

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

96 § 3. The Authority shall provide a total of \$500 million in grants to be distributed equally among all  
97 local school divisions, with each school division to receive \$3,676,471 in grants. The Authority shall  
98 provide an additional \$500 million in grants to be distributed to local school divisions on a set per  
99 pupil amount, based on each school division's actual September 30, 2003, fall membership data (as  
100 collected by the Department of Education) as a proportion of total actual September 30, 2003, fall  
101 membership data for all school divisions.

102 § 4. Based on the criteria set forth in this section, the Department of Education shall determine the  
103 priority for the payment of the grants set forth in § 3 of this act to each local school division. When the  
104 Department determines that a grant shall be paid to a local school division under this act, it shall  
105 provide a written certification to the chairman of the Authority directing him to make a grant payment  
106 in a specific amount to the local school division. The Department, however, shall not make such written  
107 certification until it has established that the Authority has sufficient funds to make such grant payment.  
108 The Authority shall only make grant payments to a local school division for the grants provided under  
109 this act upon receipt of such written certification. The Authority shall make such grant payments, and in  
110 the amounts as directed by the Department, within 30 days of receipt of the certification.

111 The Department of Education shall annually obtain from each school division the amount of its total  
112 allocation that the school division wishes to claim in that fiscal year. For any amount that the local  
113 school division seeks it must certify that (i) the local school board has identified a specific project or  
114 projects for funding as well as the estimated cost figures; (ii) the local school board, and local  
115 governing body, if required, have approved the project or projects for which the school division seeks a  
116 portion of its allocation; (iii) the project or projects have been approved pursuant to § 22.1-140 of the  
117 Code of Virginia; and (iv) the project or projects are ready to be bid for construction.

118 If the total amount of the requests exceeds the annual limit imposed by law, the Department shall  
119 determine the priority for the payment of the grants based on the order in which the request and the  
120 required certifications have been received by the Department. If the available funds are insufficient to

121 fully fund a project, the Department is authorized to negotiate a lesser amount of funding with the  
122 affected school division. If the school division does not wish to accept the lesser amount, the  
123 Department is authorized to offer the available funding to the next project on the prioritized list.

124 § 5. The Authority shall maintain separate accounts for the grants paid to local school divisions  
125 under this act and for bonds issued to raise funds for the payment of such grants. The Authority shall  
126 take all necessary and proper steps, as it is authorized to take under law, to carry out the provisions of  
127 this act.

128 § 6. Beginning in 2005, the Department of Education shall make an annual report to the General  
129 Assembly on June 1 of each year reporting (i) the total grants paid during the prior calendar year and  
130 from the date of the passage of this act to each local school division pursuant to the provisions of this  
131 act, and (ii) a detailed description of the public school projects for which the grants were used.

132 **3. That the Virginia Public School Authority shall not incur more than a total of \$250 million in**  
133 **debt or other payment obligations in any fiscal year in implementing the provisions of the second**  
134 **enactment of this act. "Debt or other payment obligations" means a source of funding, either**  
135 **directly or indirectly, through bonded indebtedness or other borrowings of the Authority except**  
136 **that it shall not include the (i) issuance costs, capitalized interest, reserve funds, and other**  
137 **financing expenses directly relating to bonds issued for implementation of the School Construction**  
138 **Grant Act of 2004 or (ii) bond anticipation notes, refunding bonds, or refunding bond anticipation**  
139 **notes issued or directly relating to implementation of the School Construction Grant Act of 2004.**