

2006 SESSION

SENATE SUBSTITUTE

065252712

SENATE BILL NO. 28

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 10, 2006)

(Patron Prior to Substitute—Senator Chichester)

A BILL to authorize the Treasury Board to issue bonds in an amount not to exceed \$395,428,570 pursuant to Article X, Section 9(c) of the Constitution of Virginia, for paying costs of acquiring, constructing, and equipping revenue-producing capital projects at institutions of higher education of the Commonwealth, and to repeal Chapters 2 and 813 of the Acts of Assembly of 2004 and Chapter 83 of the Acts of Assembly of 2005.

Be it enacted by the General Assembly of Virginia:

1. § 1. Title. This act shall be known and may be cited as the "Commonwealth of Virginia Higher Educational Institutions Bond Act of 2006."

§ 2. Authorization of bonds and bond anticipation notes (BANs). The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9(c), of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series . . . ," in an aggregate principal amount not exceeding \$395,428,570, plus amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
George Mason University	Renovate Commonwealth and Dominion housing facilities	16690	2,537,700
George Mason University	Renovate student housing, President's Park I	17050	3,340,000
George Mason University	Construct student housing VII	17056	38,778,000
James Madison University	Renovate Bluestone Residence Hall Phase 3	16687	6,810,000
The College Of William And Mary	Renovate Commons Dining Hall	16647	1,480,000
University of Mary Washington	Acquisition of Student Residence Facilities	16686	10,000,000
University Of Virginia	Construct Alderman Road Housing	16650	22,500,000
Virginia Polytechnic Institute and State University	Improve major residence and dining hall	17008	4,000,000
Virginia Polytechnic Institute and State University	Parking Auxiliary Projects	14815	4,942,700
Virginia Polytechnic Institute and State University	Construct New Residence Hall	16682	22,000,000
Virginia Polytechnic	Construct Dining and	16683	

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57	Institute and State	Student Union Facility		6,250,000
58	University			
59	Christopher Newport	Construct Residence	17359	
60	University	Hall V		25,000,000
61	George Mason	Construct Housing VII	17367	
62	University	and Entrance Road		48,486,000
63		Realignment		
64	James Madison	Construct new	17329	
65	University	residence hall		34,284,000
66	James Madison	Renovate Bluestone	17330	
67	University	Dormitories, Phase IV		23,909,000
68	James Madison	Construct New		
69	University	Dining Facility		18,914,170
70	Longwood University	Renovate Cox Hall	17320	12,893,000
71	Longwood University	Renovate Stubbs Hall	17321	13,878,000
72	Old Dominion	Renovate Student	16688	
73	University	Housing, Phase I		2,000,000
74	Old Dominion	Construct Residence		
75	University	Hall, Phase II	17342	28,931,000
76	The College Of William	Renovate Dormitories	17281	
77	And Mary In Virginia			5,000,000
78	Virginia Polytechnic	Improve Residence and	17294	
79	Institute and State	Dining Halls		10,000,000
80	University			
81	Virginia State	Construct Residence	17307	
82	University	Halls		17,461,000
83	Virginia State	Renovate Howard Hall	17308	
84	University			7,620,000
85	Virginia State	Construct Dining Hall	17309	
86	University			4,501,000
87	Longwood University	Renovate Housing	16874	
88		Facilities		8,961,000
89	Virginia State	Construct Student		
90	University	Village 240 Bed	16685	10,952,000
91		Residence Hall		
92				

Total \$395,428,570

§ 3. Application of proceeds. The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs) shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of the acquisition, construction, renovation, enlargement, improvement, and equipping of the authorized capital projects, including financing costs. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.

§ 4. Details, sale of bonds and BANs. Bonds and BANs shall be dated, and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or

places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding 30 years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth.

In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a)(3), (b), and (c) of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds Bond Anticipation Notes, Series . . .".

§ 5. Execution of bonds and BANs. Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution are the proper officers to sign such bond or BAN although, at the date of such bond or BAN, such persons may not have been such officers.

§ 6. Sources for payment of expenses. All expenses incurred under this act shall be paid from the proceeds of bonds or BANs, from payments made by the institutions for which the capital projects were authorized in § 2 hereof, or from any other available funds as the Treasury Board shall determine.

§ 7. Revenues. Each institution of higher learning mentioned above is hereby authorized (i) to fix, revise, charge, and collect rates, fees, and charges for or in connection with the use, occupancy, and services of each capital project mentioned above or the system of which such capital project is a part and (ii) to pledge to the portion of the bonds or BANs issued for such capital project the net revenues resulting from such rates, fees, and charges and remaining after payment of the expenses of operating the project or system, as the case may be. Each such institution is further authorized to create debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the bonds and other reserves required by any agency of the United States of America purchasing the bonds or any portion thereof.

§ 8. Investments and Contracts. A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose of payment of bonds or BANs, they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds or BANs.

B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs or investments, in whole or in part, on the interest rate, cash flow, or other basis desired by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, or incidental to, entering into, or maintaining any (i) agreement which secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency and any other criteria as may be appropriate. The determinations referred to in this paragraph may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A of this section and may be pledged to and used to service any of the contracts or other arrangements entered into

176 pursuant to subsection B of this section.

177 § 9. Security for bonds and BANs. The net revenues of the capital projects set forth above and the
178 full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the
179 principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of
180 the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of
181 which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby
182 irrevocably pledged for the payment of principal of and interest and any premium on the BANs or
183 bonds to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the
184 bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if
185 any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been
186 pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct
187 payment therefor from the general fund revenues of the Commonwealth.

188 § 10. Exemption of interest from tax. The bonds and BANs issued under the provisions of this Act,
189 their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times
190 be free and exempt from taxation by the Commonwealth and by any county, city, town, or other political
191 subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions
192 and to covenant to such effect, and to require the participating institutions to do and to covenant
193 likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that
194 interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds
195 and BANs may be made subject to inclusion in gross income of the holders thereof for federal income
196 tax purposes.

197 § 11. Refunding bonds and BANs. The Treasury Board is authorized, by and with the consent of the
198 Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the
199 Commonwealth, to refund any or all of the bonds and BANs, respectively, issued under this Act or
200 otherwise authorized pursuant to Article X, Section 9(c), of the Constitution of Virginia. Refunding
201 bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or
202 redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of
203 the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be
204 refunded are then subject to redemption.

205 § 12. Defeasance. Any bond or BAN for which cash or direct obligations of the United States of
206 America shall have been set aside in escrow with the State Treasurer or a bank or trust company,
207 within or without the Commonwealth, shall be deemed no longer outstanding under the applicable
208 authorizing instrument, this Act, and Article X, Section 9(c) or (b), as the case may be, of the
209 Constitution of Virginia.

210 § 13. Severability. The provisions of this Act or the application thereof to any person or
211 circumstance that are held invalid shall not affect the validity of other provisions or applications of this
212 Act which can be given effect without the invalid provisions or applications.

213 **2. That Chapters 2 and 813 of the Acts of Assembly of 2004 and Chapter 83 of the Acts of**
214 **Assembly of 2005 are repealed; however, such repeal shall not operate to invalidate, alter the**
215 **security, or prohibit the refunding of bonds heretofore issued pursuant to such acts.**

216 **3. That an emergency exists and this act is in force from its passage.**