Department of Planning and Budget
2009 Fiscal Impact Statement

1. **Bill Number:** SB1226

   House of Origin _X_ Introduced ___ Substitute ___ Engrossed

   Second House ___ In Committee ___ Substitute ___ Enrolled

2. **Patron:** Barker

3. **Committee:** Local Government

4. **Title:** **Public schools; financing**

5. **Summary:** Public schools; financing. Creates the Virginia School Construction Revolving Fund for financing elementary, secondary, or vocational education school projects.

6. **Fiscal Impact Estimates:** Indeterminate. See item 8.

7. **Budget Amendment Necessary:** No.

8. **Fiscal Implications:** This bill creates the Virginia School Construction Revolving Fund (Fund), an Authority to manage the Fund and an Advisory Board to the Authority. The Authority is defined as the Industrial Development Authority of the County of Stafford and the City of Staunton. This legislation will not have a state fiscal impact unless funds are appropriated by the General Assembly.

   The legislation empowers the Authority to administer and manage the Fund and to collect an annual management fee of up to eight percent of the outstanding balance of any loan. The Advisory Board will develop guidance documents governing project eligibility, criteria and direct the distribution of the loans or grants from the Fund to particular local governments. The Advisory Board is also charged with determining the interest rate and terms and conditions of any loan made from the Fund. The interest rates or repayment terms can vary from locality to locality. The bill does not stipulate how the interest rates will be derived or describe the criteria used to determine them. As a result, it is possible localities may pay more than the rates established for state loan programs.

   The legislation requires each loan to be supported by appropriate bonds or notes of the local government made payable to the Fund. The Authority can require loan documents, instruments, certificates, legal opinions, and any other information it may deem necessary or convenient. It can also require localities to meet various conditions including, but not limited to, establishing rents, rates, fees and charges to produce revenue to pay all or a portion of the costs of operation and maintenance of any outstanding debt, or any amount required to create and maintain a reserve. Furthermore, the Authority can require the local government to levy and collect ad valorem taxes on all property within the locality's jurisdiction to repay the loan from the Fund. Meeting the conditions set forth by the Authority may result in additional costs for a locality or increase the tax burden of its citizens.

The Authority will also have the power to pledge, assign or transfer from the Fund to banks or trust companies any or all assets of the Fund for the payment of bonds issued to finance projects. It is also permitted to sell any loan or interest at any time or procure credit enhancements from any public or private entity for the payment of any bonds issued. This legislation also allows the Authority to pledge the Fund to secure any of the Authority's bonds. The bill does not indicate that pledges are limited for public education purposes.

9. **Specific Agency or Political Subdivisions Affected:** Board of Education and local school divisions.

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** Currently, the Literary Fund is administered by the Department of Education (DOE) and is used to provide low interest rate loans to localities for school construction. The Board of Education takes into account the composite index when determining loan recipients as well as establishing the interest rate. Establishing a second revolving fund: (i) would duplicate a successful and well established program, (ii) could divert funds away from the Literary Fund or other essential state services, and (iii) would be more costly to local school districts than Literary Loans or the subsidized borrowing program through the Virginia Public School Authority (VPSA). Both provide borrowing at below market rates.

    As less funding has been available for direct loans, the VPSA's Interest Rate Subsidy Program has been used more frequently. This program leverages the amounts available in the Literary Fund by "buying down" the VPSA borrowing rate to provide the equivalent of a Literary Loan rate. The program has financed over $976.9 million in projects on the Literary Fund waiting list since 1997.

    The VPSA provides its unsubsidized loan program for other school projects not on the Literary Fund waiting list that can be used for all types of real and personal property for public schools. Both VPSA programs (subsidized and unsubsidized) carry bond ratings of AA+/AA1/AA+ without the need for bond insurance or other credit enhancement as may be required by the Fund and program proposed in this bill in order to obtain comparable ratings.

    Finally, The bill does not allow the General Assembly or the Governor authority over the Fund or its use. It also does not indicate the General Assembly or the Governor will have any control over the investment of the Fund, or the criteria used by the Authority or the Advisory Board to determine the recipients of grants or loans.

    This bill is Similar to HB2018.

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