10100662D

HOUSE BILL NO. 1205

Offered January 13, 2010

A BILL to amend the Code of Virginia by adding in Chapter 3.3 of Title 23 sections numbered 23-30.59 and 23-30.60, relating to authority of the Virginia College Building Authority to provide credit enhancement for private institutions of higher education.

Patrons—Morgan and Griffith; Senators: Locke and McEachin

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3.3 of Title 23 sections numbered 23-30.59 and 23-30.60 as follows:

§ 23-30.59. Credit enhancement for bonds for institutions of higher education.

The Authority shall have the power to issue or acquire credit enhancements to secure payment of bonds issued by the Authority. Credit enhancements include, without limitation, surety bonds, insurance policies, letters of credit, guarantees and other forms of collateral or security as well as capital reserve funds authorized by § 23-30.60.

The Authority shall have the power to pledge any revenue or funds of, or under the control of, the Authority to the payment of its bonds and credit enhancements, subject only to any prior agreements with the holders of particular bonds or the beneficiaries of particular credit enhancements pledging money or revenue.

§ 23-30.60. Capital reserve funds.

A. The Authority may create and establish one or more capital reserve funds and may pay into each capital reserve fund (i) fees charged to institutions of higher education for any credit enhancement service or otherwise in connection with the issuance of bonds, (ii) any moneys appropriated and made available by the Commonwealth for the purpose of such a fund, (iii) any proceeds of the sale of bonds of the Authority, to the extent provided in the resolution authorizing the issuance of, or the trust indenture securing, the bonds, and (iv) any other moneys which may be made available to the Authority for the purpose of such a fund from any other source. All moneys held in any capital reserve fund, except as hereinafter provided, shall be used solely for the payment when due of the principal of and premium, if any, and interest on the bonds or obligations secured in whole or in part by such a fund. If, however, moneys in any such fund are ever less than the minimum capital reserve fund requirement established for the fund by the Authority, the Authority shall not use the moneys for any optional purchase or optional redemption of bonds. Any income or interest earned on, or increment to, any capital reserve fund due to its investment may be transferred by the Authority to other funds or accounts of the Authority to the extent it does not reduce the amount of the capital reserve fund below its minimal requirement. The Authority may provide for the funding of amounts in any capital reserve fund with insurance policies, surety bonds, irrevocable letters of credit or other credit agreement or similar facilities in lieu of or in substitution for cash or securities pursuant to terms and standards set by the Authority.

The Authority shall not at any time issue bonds or credit enhancements secured in whole or in part by any capital reserve fund, if upon the issuance of the bonds or credit enhancements, the amount in the capital reserve fund will be less than its minimal requirement unless the Authority, at the time of issuance of the bonds or credit enhancements, deposits in the fund an amount which, together with the amount then in the fund, will not be less than the fund's minimal capital reserve requirement.

B. In order to assure further the maintenance of capital reserve funds, the chairman of the Authority shall annually, on or before December 1, make and deliver to the Governor and the Secretary of Administration a certificate stating the sum, if any, required to restore each capital reserve fund to its minimal requirement. Within five days after the beginning of each session of the General Assembly, the Governor shall submit to the presiding officer of each House of the General Assembly printed copies of a budget including the sum, if any, required to restore each capital reserve fund to its minimal requirement. All sums, if any, which may be appropriated by the General Assembly for any restoration and paid to the Authority shall be deposited by the Authority in the applicable capital reserve fund. All amounts paid to the Authority by the Commonwealth pursuant to the provisions of this section shall constitute and be accounted for as advances by the Commonwealth to the Authority and, subject to the rights of the holders of any bonds of the Authority or the beneficiaries of credit enhancements of the Authority, shall be repaid to the Commonwealth without interest from available operating revenues of the Authority in excess of amounts required for the payment of bonds, credit enhancements or other

obligations of the Authority, the maintenance of capital reserve funds, and operating expenses. The Authority shall, upon issuance of any bonds secured in whole or in part by a capital reserve fund, establish the terms and conditions for the use of such fund and may thereafter amend such provisions consistent with pledges made to the owners of such bonds. In addition, no bonds issued by the Authority to finance a professional sports facility shall be secured by a capital reserve fund.

C. Notwithstanding any other provision of this chapter, the total outstanding aggregate principal amount of bonds issued by the Authority secured by a capital reserve fund pursuant to the provisions of this section shall not exceed the sum of $200 million at any one time without prior approval of the General Assembly; provided further the principal amount of bonds issued by the Authority and refunded with proceeds of refunding bonds issued by the Authority shall not be included in the total of outstanding bonds for purposes of determining the limit on total outstanding aggregate principal amount set forth herein.

D. In connection with the issuance of bonds secured by a capital reserve fund, the Authority shall develop and impose appropriate standards for the financial and operating requirements and obligations that institutions for higher education must meet and undertake as a condition of being a beneficiary of such bonds.

E. Nothing in this section shall be construed as limiting the power of the Authority to issue bonds or credit enhancements not secured by a capital reserve fund.